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Washington Lags Behind Other States in Corporate Disclosure and Accountability

Overview

States spend billions of dollars every year on tax breaks for businesses. A growing number of states have legislation in place that requires companies to disclose certain information on the tax breaks they have received. Disclosure allows states to evaluate the costs and benefits of tax breaks. For example, states can monitor the jobs created by tax breaks by looking at job creation levels, job retention, wage bands, and benefits. With disclosure legislation in place, Washington legislators and private residents will have the information needed to change those tax breaks that are not working as intended and support those that are.

Tax expenditure reports identify the costs of tax breaks. Many states provide this information side by side with the state budget. This practice allows legislators and the general public to evaluate all forms of state spending at the same time. Tax expenditure reports provided with the budget give legislators and the public an important tool to use when evaluating costs and benefits of tax breaks. Washington has the opportunity to enact legislation that will improve the budget process by requiring that a tax expenditure report accompany the budget proposal every biennium.

Accountability and disclosure

States across the nation have implemented corporate disclosure and accountability legislation. These policies make it possible for states to review the results of tax breaks for cost effectiveness. States with long standing corporate accountability legislation have expanded their successful policies, and other states are in the process of passing such legislation.

Common requirements in disclosure policies are requiring companies to report specific information such as wage bands, job creation and retention, projected job data, amount of assistance received, explanation of public purpose, a statement of need, a time line for goals to be met, and a clawback clause.[1] Clawbacks are financial penalties imposed for non-compliance with a business' subsidy agreement.[2]

Polls suggest wide public support for disclosure and accountability policies:[3]

- 78% of Americans support requirements for business tax breaks, which include clawbacks if agreements are not met.
- 86% support providing tax breaks only to businesses that provide decent wages, benefits, sustained employment, and a good environmental record.

continued on page 2

Not only is there a growing demand for corporate disclosure, but there is a growing realization that the outcomes of such legislation are not harmful to business. The realization from the public that a business is ethically sound is a strong determining factor for purchasing decisions by potential customers. According to a survey conducted by Environics International, more than one in five potential customers reported evaluating businesses based on their performance and social decisions. Another survey by the same organization found that more than a quarter of Americans who are making stock purchasing decisions take into consideration business' social responsibility.[4]

This report discusses numerous examples of states that have implemented accountability and disclosure legislation.

Accountability and disclosure legislation; examples

Minnesota

In 1995, Minnesota enacted an economic development accountability law titled, "The Business Subsidy Accountability Act." In 1998, The Corporate Subsidy Reform Commission (a bipartisan group created by the Minnesota Legislature) published a report that included recommendations for expanding and refining the accountability law. In 1999, many of these recommendations were passed into law.[5] In 2000, the legislature added specific minimum requirements that potential recipients would have to meet before becoming qualified for business tax breaks. It also required subsidy agreements to include measurable, tangible, and specific goals.

Highlights of Minnesota's disclosure and accountability requirements:[6]

- The granting government agency is required to report wage and job creation goals, and the results for each project.
- Tax breaks are required to meet a stated public purpose.
- Businesses have a specific time period for satisfying the job and wage goals that accompany subsidies.
- Businesses that fail to meet their wage and job creation goals are required to repay the assistance to the government agency.
- A public notice and hearing is required before a business subsidy is awarded.
- Reporting requirements include:
    - Number of full-time and part-time jobs created categorized by hourly wage
    - Amount of subsidy
    - Benefits
    - Date for goals to be reached
    - Type, purpose, and amount of subsidy

The disclosure of this information has allowed many analyses of the cost and benefits of Minnesota's subsidy programs, and has increased civic engagement in Minnesota. For example, a report by Good Jobs First: "Economic Development in Minnesota: High Tax breaks, Low Wages, Absent Standards," reviewed 550 disclosure reports.[7] According to Senator Hottinger (the primary author of the law), the law has prompted more media coverage, more discussion, and more accountability in economic development.[8]

Disclosure legislation provides many benefits to businesses. One key area of benefit is in attracting employees. Employees are beginning to look beyond the mere factors of pay and benefits when making the decision of where to work. Many are looking to the values and operating practices of the potential employer to assist them in making such a decision. If the practices of a business are made more transparent through disclosure legislation, a potential employee has access to the important information that will help them in this decision. They will be able to look at wages, job retention, benefits, and the overall social performance of a business. This benefits businesses in a competitive work climate where such factors can determine whether or not they are able to attract the best employees. Businesses that make their responsible corporate practices available to the public will be able to attract and retain such workers.[9]

Maine

In 1998, Maine enacted a disclosure bill for their state, "An Act to Encourage Accountability and Return on Investment for Maine Taxpayers from Economic Development Incentives"; in order to review how much taxpayer money was being spent on economic development incentives. The law required four different state agencies to file a public report, which listed all the companies and the amounts that they received within seven different state programs in 1998.[10]

Businesses receiving $10,000 or more in state assistance provide annual reports on:[11]

- The amount received in the previous year from each subsidy
- Current employment levels broken down by job classification, wages, and benefits
- Job creation and retention goals: the amount, type, wage levels
- Specific use for tax breaks received
- Demonstration of public purpose and an assessment of performance in respect to this purpose

The Economic Development Incentives Commission, created by the law, studies the impact and cost-effectiveness of the tax breaks, and recommends reforms to increase accountability.[12] In 2001, businesses not complying with the law began having their business equipment tax reimbursement withheld.

As a result of this disclosure law, the public now has access to information about the employment, wage, and benefits data on businesses receiving tax breaks in Maine. The commission now has a standardized reporting format that will enable it to report the necessary data to the state in order to evaluate the different tax breaks in relation to employment, wages, benefits, and cost effectiveness. This process has significantly increased the data available around these key areas and has identified areas where additional changes can be made.[13] The legislation has allowed outside review of tax breaks as well. For example, a report published in 2000 by The Northeast Corporate Accountability Project at the Commonwealth Institute looked at 190 companies that filed the necessary incentive disclosure reports.

The benefits for corporate disclosure aren't just for the state and public at large. Businesses that perform well under disclosure laws experience advantages over those that do not. The benefits for socially responsible businesses include lower operating costs and or improved financial progress due to the clarity that comes with knowing where improvements can be made.[14]

Some examples of other states with corporate accountability and disclosure legislation

- In 1993, Connecticut enacted an act to address economic reform, which requires reporting from subsi-

Greg LeRoy, Executive Director, Good Jobs First

I have been surveying states and cities about their use of economic development safeguards such as disclosure, clawbacks, and job quality standards since 1989. I am not aware of any evidence that the use of any of these safeguards has harmed the 'business climate' of any jurisdiction. Indeed, if you look at the experiences of states with disclosure, such as Minnesota which has had it since 1995, you see states that are doing better than many of their neighbors. Obviously, economic development safeguards have no effect on a state's economy; what matters are the kinds of issues the Federal Reserve Bank cites in its beige book surveys: trade agreements and their effect on manufacturing, commodity prices and their impact on farmers, the value of the dollar and its effect on imports and exports, inflation, and so forth. The quality of a state's infrastructure and public services such as education also matter, and each of those depends on a tax base that is not unduly eroded by unaccountable tax giveaways.

dized businesses in that state and reporting by three state agencies on their findings. In 1994, the state enacted "An Act Concerning Economic Development Program Accountability," which further clarifies the duties of the reporting agencies. Subsidized corporations must state how many jobs they expect to create through the use of tax breaks, and must report each year on their actual employment levels. They must also report changes in employment and wage levels. The motivation behind the pieces of legislation is to discover whether the recipient of tax breaks is providing returns (such as increased revenue, increased and retained employment, and increased wage levels) that are proportionate to the amount they receive.[15]

- Ohio offers a technology investment credit, which offers multiple benefits to businesses investing in research and development and technology. The information gathered on businesses receiving the credit includes employment data and compliance status.[16]
- Illinois recently enacted its own form of corporate disclosure: it provides electronic reporting of data collected, which includes information on the awarding of tax breaks and reports on the progress of job creation and retention (including projections and actual numbers), and wage averages.[17]
- Nebraska offers the Employment and Investment Growth Act and the Employment Expansion and Investment Incentive; both require reporting from the State Tax Commissioner on jobs created, amount of investment, average wages or salaries of jobs created.[18]
- North Carolina enacted its own form of corporate disclosure in 2002, which requires disclosure of tax credits for training, research and development, and machinery and equipment. Development zone credits require the disclosure of how many of the new jobs went to residents within that zone. It also requires that the Department of Revenue publish a report on their findings.[19]
- Examples of common corporate disclosure policies and examples of states that have implemented them:
  - Company specific data in reporting: Connecticut, Illinois, Louisiana, Nebraska, Texas, West Virginia, Maine, Minnesota, North Carolina, and Ohio (including dollar amounts, job data, and wage data)[20]
  - Inclusion of geographical data and/or data on relocation: Maine, Minnesota, Nebraska, North Carolina, West Virginia, and Ohio[21]
  - Disclosure of the dollar value of tax breaks: West Virginia, Nebraska, Minnesota, Maine, Louisiana, and Connecticut[22]

    - Recapture provisions or clawbacks: A total of 19 states have clawback policies in place,[23] including Colorado, Iowa, Nebraska, Nevada, and Connecticut.[24]
    - Wage and benefit standards: job quality standards exist in at least 89 jurisdictions in 43 states, attached to a full range of economic development incentives, including tax breaks, financing, and outright grants.[25]
    - Of the above states that have job quality standards: 30 states connect those standards to multiple subsidy programs.[26]

The majority of development officials interviewed by Good Jobs First agreed that job quality standards do not hurt business. And of 119 officials interviewed, only 16 had heard any complaints about job quality standards adversely affecting development efforts. In fact, many reported that such standards were an important tool in creating high-quality jobs. This assisted in avoiding "hidden taxpayer costs" of Medicaid, food stamps, and other programs that are necessary in low-wage work. Avoiding such hidden costs benefits all members of a community.[27]

Tax expenditure reports

Tax expenditure reports provide information on the costs of tax breaks to legislators and to the public. This improves the transparency of tax spending and improves accountability on the part of the government and any agencies responsible for giving tax breaks. It ensures that legislators will know the revenue cost of tax breaks, and provides the public with information on the fiscal significance of these tax breaks.[28]

Numerous states have extensive tax expenditure reports coupled with their state budget. Examples include:

- Texas requires a Unified Development Budget to be reported to the legislature, which explains all state spending on economic development. This includes:
    - Tax expenditure programs
    - Training programs
    - Extension and modernization programs
    - Vocational education
    - Infrastructure
    - Small business assistance
    - Industrial revenue bonds and other loans and loan guarantees

This allows the legislature to have a clear view of what the state's spending trends are.[29]

- In 1995, Oregon enacted The Budget Accountability Act, which requires a tax expenditure report to accompany the budget report every biennium. One of the goals of this legislation is to allow residents of that state to obtain information about the amount and effectiveness of tax expenditures.[30]
- Washington D.C. files a tax expenditure report along with the biennial budget. This report includes the current year and a projection for the upcoming two years.[31]
- Maine includes a tax expenditure report every year along with the budget. It includes four years: the previous year, current year, and the following biennium.[32]
- Other states that include tax expenditure budgets with their state budget include: Idaho, New York, Ohio, and Wisconsin.[33]

- Illinois recently enacted what they call an annual unified development budget, listing all state aid including: tax breaks, State Treasurer's Economic Program (STEP) loans, and the Illinois Department of Transportation's Economic Development Program.[34]

Washington should pass corporate accountability and disclosure legislation and institute a tax expenditure report along with the Governor's proposed budget

In Washington, many tax breaks are given with assurances that they will bring in new jobs and money into the local economy (through spending, wages, and benefits). Many of these tax breaks are permanent. Because Washington does not have appropriate disclosure and accountability policies, many of these tax breaks are never reviewed, and much of the information needed to review them is not publicly available.

Washington state does have some promising disclosure policies already in place in the semi-conductor industry. Tax breaks given in the semi-conductor industry require annual reports to be filled out by recipients and filed with the Department of Revenue. These reports include data on employment, wages, and benefits. In addition, businesses must file two reports at the fifth and eleventh year to the fiscal legislative committee.[35]

Corporate accountability and disclosure legislation

Washington has the opportunity to increase disclosure and accountability by passing HB 2762. This legislation would increase accountability, and public access to information. It would ensure that voters are provided with information on how their money is being spent. This legislation would set up eligibility standards for recipients of tax breaks, which would require:[36]

- A net creation of full-time permanent jobs within two years of receiving the subsidy

Steve Greenberg

I am a Washington resident and feel strongly that our state needs to modify the tax structure to ensure that large businesses and wealthy individuals are paying their fair share. Right now, larger corporations don't have to demonstrate commitment to local economies to get tax breaks from Washington. We need to have an understanding of who is benefiting from which subsidies in order to determine the effects of those subsidies.

This is by nature a public issue. The subsidies decrease public funds and the public deserves to know what is being done with state dollars. It is critical to ensure that subsidies are creating a strong sustainable local economy. Getting information about subsidies out in the open will also help us recognize local businesses which are creating positive impacts in the local economy. These companies will benefit from the positive PR.

Companies that are providing living wage jobs with benefits and making environmentally responsible decisions need the subsidies in order to be effective, and to continue to invest in our communities. These companies should be given priority to receive exemptions.

At a gut level, it doesn't seem like the right people are benefiting when big businesses force communities into bidding wars to see who can provide the most tax loopholes. Where does that leave small business owners? What about all the lost revenue?

- Benefits provided by the employer and description
- Local hire agreements
- Prevailing wages given for the targeted industry
- Statement of need for job creation or public benefit
- Statement of temporary, full, and part-time jobs created
- Wage bands of all new jobs
- Amount of subsidy
- Recipient's employment levels outside Washington

Other suggested criteria, which would strengthen the accountability:[37]

- Benefits to meet or exceed that of the Basic Health Plan
- Amount of jobs to be filled by Washington residents
- Limit of five years for all tax breaks
- Clawback requirement

This information would be gathered and reported annually to the Department of Revenue and would also be made public.

Tax expenditure report legislation

By passing HB 2654, Washington has the opportunity to include a tax expenditure report along with the budget every biennium According to the legislation; the report should include the following:[38]

- A list of exemptions prepared by the Department of Revenue
- A budget analysis of each exemption
- Categorization of each exemption based on the function or program it supports
- A determination on whether or not the exemption is the most fiscally effective way of achieving the intended purpose
- A determination of whether the goals of the exemption have been met
- An analysis of the beneficiaries
- Requires the governor to identify which exemptions will be ended during the following biennium

Additional recommendations for Washington's tax expenditure reports:[39]

- The statutory authority for each exemption
- Estimates for loss for the upcoming biennium
- Revenue loss for the previous biennium

In order to improve the effectiveness of tax expenditures and to ensure that the determined goals are met it is necessary for Washington state to enact legislation that requires corporate accountability and tax expenditure reports.

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