

Relieve High Unemployment Tax Incentives Act of 2017, Bill 22-218

Before the Committee on Finance and Revenue

The Honorable Jack Evans, Chairman

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Room 120, John A. Wilson Building**



**Testimony of
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Good morning Chairman Evans and members of the Committee on Finance and Revenue. I am Bazil Facchina, Assistant General Counsel, for the Office of Tax and Revenue. I am pleased to present testimony on Bill 22-218, the “Relieve High Unemployment Tax Incentives Act of 2017.”

In general, the Bill would provide a variety of tax incentives for investment in areas of the city experiencing high unemployment. Taxpayers eligible for these abatements generally consist of companies that will make a substantial capital investment or invest \$50,000,000 in buildings or improvements in a high unemployment area. The incentives would include a real property tax abatement for new or expanded buildings in these areas, and a personal property tax abatement for new investments and expansion of existing businesses for businesses authorized to do business in the District. These abatements would be negotiated by the Mayor and project developer, and the program would sunset after 10 years.

Qualified companies located in these areas would also receive an employment tax credit of 20% for the first \$15,000 in wages (up to \$3,000 per employee) for District residents working not less than 30 hours per week as full-time employees. This provision also sunsets after 10 years.

A program of Tax Increment Financing (TIF) of infrastructure improvements to attract new and expanding businesses to high unemployment areas is also provided. The TIF program will occur only through the use of the actual increase

in real and personal property tax and sales tax revenues in a pre-established TIF District in a high unemployment area. This program is also subject to a 10-year sunset. A tax credit of \$2.50 per square foot is also available to a business renting space under a 3-to-5 year lease which makes an investment corresponding to the amount of the tax credit. The credit would be available for up to 5 consecutive years, and the credit program sunsets after 15 years. These tax abatements are also available for up to 3 film, television or digital media production facilities.

Applications for the abatements would be submitted to the Mayor, who would approve them if she determines the project has a substantial possibility of helping to decrease the unemployment rate in one of these areas. The approved application would be submitted to the Council for a 30-day review and would be deemed approved unless a resolution of disapproval is introduced.

There are a number of concerns relating to the language of the Bill as it pertains to administration of the proposed programs, and we are available to discuss these in greater detail if the Committee requests our input. I would like to highlight some of these concerns.

If the program remains structured as a tax abatement, the Bill should be modified to provide that the Mayor shall certify to the Office of Tax and Revenue (OTR) each property or company that has been awarded abatements, the type of abatement granted, its duration and other information necessary for OTR to

implement the abatement. The Mayor should also be required to advise OTR if a property or company loses eligibility for an abatement previously awarded.

Turning to the provisions of the Bill, in the definitions portion of section 2 of the Bill, additional specificity is needed in defining the “Areas” eligible for these programs and whether they align with unemployment statistics available. Also, since unemployment rates fluctuate, it is possible that an area could move in and out of eligibility over time, which would complicate project planning and determinations of abatement eligibility. The benefits that a qualified company should provide need to be defined with greater precision, and provide a clear standard for determining whether an application for abatement should be granted.

For the real property tax abatements, an abatement cannot be granted on a property already in an area where revenues have been committed to a TIF payment. The Bill should also clarify whether an abatement is limited to a specific period or is open-ended. This may be covered by the agreement, but the bill is silent on the duration of the abatement that may be negotiated. The personal property tax abatement provision appears to be available to any business authorized to do business in the District, not simply businesses committing to make substantial investments. It seems that the eligibility criteria should be clarified in this regard.

For the employment credit, it is not clear that the credit is limited to new hires, or residents of the high unemployment area, or that the employment lasts for any

length of time, such as a year. It seems that the credit would be available for any District resident working as a full time employee for the qualified company in the high unemployment area. For the TIF program, it is not clear what revenue stream, other than sales taxes, would be available to service the TIF bonds if the real and personal property taxes are abated.

It is not clear what the term “non-government financing” refers to, i.e., funds raised through a TIF bond issue? It is also unclear whether TIFs could be used to accomplish the purposes outlined in the Bill. It should also be noted that authorization of a TIF under this legislation would not require an analysis to determine whether the requested subsidy is needed for the project’s financial viability, generally known as a “but for” analysis, as is currently performed when project-specific TIF legislation is introduced.

The rental tax abatement credit should specify the taxes against which a credit would be taken, and whether an application is required. It is also unclear why a distinction is drawn between retail and non-retail businesses if all business tenants are potentially eligible. It is unclear whether any business signing a 3-to-5 year lease could qualify, provided it makes an investment, as well as what type of investment is required to qualify for the credit.

It is also unclear whether the eligibility criteria generally applicable to other abatements apply to film and digital media facilities, or if this is a stand-alone

provision. It is also unclear what tax the 10% tax credit is taken against, i.e., the income or franchise tax. Thank you, Chairman Evans, for the opportunity to comment on this Bill. I would be happy to answer any questions at this time.