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Transparency, Accountability, and Tax Modernization Needed to Ensure Big Business Pays Its Fair Share of Taxes

Despite billions of tax dollars extended to businesses each year by Florida tax and budget policies (see "State Tax and Budget Policies Provide Billions in Benefits to Select Businesses Each Year") Governor Scott wants to do more. In announcing his economic development plan for the 2012 legislative session, he said:

> As businesses struggle with questions such as when and where to open, or if they should relocate or expand, their decisions largely depend on the tax structure of the locations under consideration. One of the most important things Florida can do to attract businesses, and in turn jobs, is to create a tax environment that welcomes business growth and encourages investment in our state.[1]

Proposed is gradual elimination of the corporate income tax, which, according to the governor, "will eliminate a major barrier to Florida attracting future Fortune 100, Fortune 500 and other growing companies."[2] In addition, the Department of Economic Opportunity is asking the legislature for $230 million in job subsidy money for the next fiscal year, an increase from $93 million currently.[3]

The **lack of transparency and accountability** in current giveaways to businesses should generate caution about providing more benefits.

Subsidies in the Name of Job Creation Are Shrouded in Secrecy and Riddled With Failed Promises

For decades, Southern states have engaged in "smokestack chasing" – offering tax breaks to companies to move operations to their state.[4] Florida's efforts have generally remained out of the public eye, visible only when public officials and corporate executives announce with fanfare the arrival of new jobs

to a community. Now it is known, however, that taxpayer-funded subsidies have produced far fewer jobs than expected.

After public records requests by Florida newspapers, the Department of Economic Opportunity dribbled out some information about subsidies[5] before releasing a database with basic information about 1,521 subsidy deals from 1995 through 2011.[6] The bottom line: The state offered $1.7 billion over that period in exchange for promises to create 224,000 jobs**;** $738 million was actually paid to the companies upon confirmation that their job promises had been fulfilled.[7] Only 86,284 jobs have been confirmed – about a third of jobs promised – and the state has recouped, or "clawed back," only $10.5 million from companies that failed to live up to their promises.[8]

Basic information about the most recent deals – including the names of companies and the amounts of subsidies offered by the state – remains unknown. State law exempts this information from public disclosure for up to two years,[9] a necessity, state officials say, to avoid disclosing proprietary information about business plans to a corporation's competitors. "Such secrecy hasn't done much for the overall track record," the St. Petersburg Times said in an editorial. "The majority of deals Florida made didn't pan out, suggesting the principle of open government has been sacrificed for little gain."[10] The exemption is now under review, and a proposed committee bill has been filed (Senate Bill 7014) to renew it.[11]

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Subsidies have been offered to many large, profitable, multistate corporations, the database shows: Mitsubishi, Raymond James, T. Rowe Price, Coca-Cola, Target, Ford Motor Credit, Publix, Office Depot, Charles Schwab, Ernst & Young, Metropolitan Life Insurance, Bank of New York, Family Dollar, and Carnival Corporation. The latter, paid $1.2 million in tax dollars in 2002, was identified in a St. Petersburg Times report as having paid no state corporate income tax that year.[12]

Another big recipient of Florida handouts has been Wal-Mart, paid almost $12 million between 2000 and 2011 for several projects in rural areas throughout the state. The company has been a particularly avid user of public money to finance its growth nationwide, according to Good Jobs First, receiving more than $1.2 billion in tax money nationally over the years. "In addition, taxpayers indirectly subsidize the company by paying the healthcare costs of Wal-Mart employees who don't receive coverage on the job and instead turn to public programs such as Medicaid," Good Jobs First reports in its "Wal-Mart Subsidy Watch."[13]

Because another state law makes corporate income tax records confidential,[14] it is impossible to know whether large multistate corporations and other companies receiving taxpayer-funded giveaways paid state corporate income tax on their Florida profits, or how much they paid. But LLCs receiving state subsidies paid no corporate tax on their profits because of the exemption of limited liability companies from the corporate income tax.

The largest subsidies, $786 million in state tax dollars, were committed to Scripps Florida and seven other biotech-related entities between 2003 and 2008.[15] (Local governments provided over $625 million more.[16]) As of the middle of 2010, the biotechnology entities receiving the subsidies had created about 900 jobs of the 2,033 promised[17] and had received $531.8 million of the total amount agreed to by the state. For each permanent job created by the seven biotech organizations, state taxpayers had provided $591,000 in subsidies.

For Scripps, the recipient of the largest amount of tax dollars, the cost per job is even greater. At the end of 2010, Scripps reported 377 employees and the receipt of $272.2 million from the state[18] – equivalent to about $722,000 in state tax money for each permanent job. That figure does not include the $200 million promised Scripps from local governments.

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Questionable Rationale for Additional Benefits to Corporations

In addition to secrecy and the lack of accountability in current giveaways, additional factors raise questions about the rationale for more tax breaks for corporations.

- **The importance of corporate taxes and subsidies in firms' location and general business decisions is questionable.**[19] One study concluded:

> Too often public officeholders first embrace lowering taxes and creating tax incentives as their chief economic development tools, with public investment usually ranking as a distant third option. An analysis of the relevant research literature, however, finds little grounds to support tax cuts and incentives—especially when they occur at the expense of public investment—as the best means to expand employment and spur growth.[20]

"[I]n reality," the Institute on Taxation and Economic Policy (ITEP) says, "the decision on where to locate is based on more important economic factors than taxes, such as distance from suppliers and markets, and the availability of skilled workers."[21]

Often a better strategy to encourage job growth is making investments in public infrastructure, says ITEP:

> [P]olicymakers have been encouraged to think that tax cuts make the best bait. A growing body of literature reminds us that taxes themselves create public infrastructure that spurs investment and

> improves the quality of life for businesses and workers alike. Communities that illustrate a strong commitment to public institutions like good schools, well-built transportation systems, and quality police and fire protection will ultimately have an advantage in attracting new business investment.[22]

Therefore it is important to evaluate the opportunity costs, or the value of alternative uses like investment in education, when economic development programs and tax breaks are considered, advises the Government Finance Officers Association.[23]

- **Florida's tax structure and "business climate" are already considered highly attractive to businesses.**[24] ChiefExecutive.net, for example, ranks Florida the third-best state for business.[25] Only 13 states have a lower corporate income tax rate,[26] and revenue from the Florida corporate income tax is also comparatively low: $99 per capita in 2009, well below the $132 national total.[27]

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- **Corporations may be rewarded for doing something they would do anyway.** "A mountain of evidence suggests that development subsidies are often abused by companies that would have done exactly what they did anyway," said Good Jobs First, an organization that tracks subsidies and recommends more accountability for economic programs.[28] For example, state and local officials worked out a subsidy deal worth $2 million for Pricewaterhouse Coopers, ostensibly to keep 1,633 Tampa jobs termed "at risk" by local officials. But the company said later that it never intended to move the jobs out of Tampa[29] and withdrew its application for the subsidies after a controversy erupted.[30] The scope of providing such unnecessary awards is not known, but a 2004 Florida legislative survey found that about half of recipients of job subsidies said they would have "probably" or "definitely" located or expanded in Florida even if they had not received a subsidy.[31]

- **Giving incentives to a few select companies creates winners and losers**. As one Republican state senator said: "When you reward someone for coming here, you're punishing the people who are already here."[32]

- **Corporate subsidies distort a state's tax system**. The conservative Tax Foundation, which supports lower corporate taxes, opposes economic development subsidies. "Tax credits complicate the tax system, narrow the tax base, drive up tax rates for companies that do not qualify and distort the free market."[33] Furthermore, "tax giveaways make it harder for states to adequately fund public services – and these tax giveaways ultimately shift the cost of funding these services onto the backs of every other taxpayer."[34]

- **Subsidy programs often don't consider the quality of jobs that might be created and the intangible costs of projects.** Some of the dozens of Florida job subsidy programs supposedly require that new jobs pay more than the prevailing wage in the community in which they locate, although the extent of adherence to that requirement is unknown. Florida subsidy programs focus narrowly on lowering business costs but should consider an employers' provision of health insurance for its workers[35] and impacts on public safety, pollution, and other quality-of-life factors. [36]

Recommendations

The following proposals would improve accountability for Florida's spending on economic development and help ensure that large profitable businesses pay their fair share for the necessary investments in the state's public infrastructure.

For Economic Development Programs: More Disclosure and More Accountability

Current laws and practices of Florida's economic development agencies prevent taxpayers and even the legislature from knowing whether the state gets its money's worth from job subsidies and tax breaks. Economic development subsidies escape the kind of accountability that the legislature requires of public schools and social safety net programs. To establish accountability and transparency, the legislature could adopt reforms to increase confidence in the expenditure of limited tax dollars:

1. **Require identification of companies receiving taxpayer-funded breaks for job creation or retention and disclosure of terms of contracts. Post the information online for public review.**

   The legislature strengthened disclosure requirements in 2011 for some economic development programs through changes to the annual incentives report required of Enterprise Florida.[37] That law, however, did not require the identification of companies receiving subsidies. The public records exemption for economic development information should be closed in the 2012 legislative session.

   Good Jobs First, a nonprofit organization advocating accountability and transparency in economic development programs, lists other key elements of reform in its report "Show Us the Subsidies."[38]

2. **Require consideration of job quality, the impact of a subsidized project on existing businesses, and the opportunity costs when making subsidy appropriations and awards.**

3. **Require regular monitoring of companies receiving tax breaks and other subsidies for job creation,** as advised by the Government Financial Officers Association and other organizations.[39]

4. **Strengthen "clawback" provisions that allow the state to recoup subsidy dollars when a company fails to achieve agreed-upon goals.** Require contracts containing clawbacks for all economic development subsidies made through appropriations, tax credit, and tax refunds.

5. **Require the development of an annual Unified Development Budget containing all direct and indirect spending and tax expenditures provided by the state for business development.** (See model legislation from Good Jobs First.[40])

For the State Corporate Income Tax: Make Sure All Business Entities Pay Their Fair Share

State laws that extend special tax benefits to some businesses, but not all, undermine the fairness of the state's tax structure. They also reduce revenue that could be used to meet critical needs like education and health care. Those defects could be remedied by adopting the following recommendations:

1. **Require disclosure of corporations' state corporate income tax payments.** State law exempts corporate tax information from disclosure, preventing the public from knowing whether corporations receiving special benefits pay their fair share for the state services they benefit from. The Institute on Taxation and Economic Policy expresses the need for corporate disclosure this way:

> Tax fairness is important. The perception that state and local taxes are treating individuals and corporations fairly is a cornerstone of public support for the tax system and for the government. But the fairness of corporate taxes cannot be evaluated without some basic information about how much companies pay in taxes, and how much they earn. If some corporations are paying less in taxes than they should be, then we need to know how and why. If some companies are paying a lot relative to other tax-avoiding corporations, policy makers should know this too. Corporate tax disclosure is the best means available to ensure that each corporation is treated fairly – and that corporations as a group pay their fair share of taxes.[41]

2. **Adopt laws requiring combined reporting of corporate income and implementing the "throwback rule" to ensure that Florida receives its fair share of taxes on revenue earned in the state so that Florida-based businesses are not placed at a competitive disadvantage.**

3. **Consider imposing a graduated tax or fee on LLCs and S corporations now exempt from the state corporate income tax to make sure they pay their fair share.** Because Florida has no personal income tax, profits of these companies "pass through" to their owners and escape both corporate and personal income taxes.

   Almost all states tax the profits of LLCs and S corporations through their personal income taxes. Only Florida and Alaska allow businesses to organize in those ways – which provide all the benefits of a corporation – yet collect no tax dollars from the profits of their owners.[42]

   The hundreds of thousands of active S corporations and LLCs in Florida[43] pay only minimal fees for the privilege of doing business in the state: $150 annually for S corporations and $139 for LLCs.[44] They are treated more favorably by Florida law than C corporations, which are subject to the state corporate income tax.[45]

   Collecting a tax or higher fee on these untaxed entities could be structured to shield small businesses. For example, Missouri does not tax S corporations with less than $1 million in assets and Minnesota's fee on S corporations and LLCs does not apply unless the firm's property, payroll, and sales in the state exceed $500,000.[46]

4. **Review all sales tax exemptions, exclusions, and other tax preferences, both those enjoyed by businesses and individuals.** For more than a decade, legislators and others have advocated a thorough and regular review of tax expenditures to determine whether they are justified. Such a review has yet to be conducted by the full legislature, however.

Conclusion

Florida's tax and budget policies are riddled with subsidies and other benefits extended to a select group of businesses in the state. The current system provides little or no review of these policies. Floridians and policymakers have no way to determine whether tax breaks and subsidy payments produce jobs or economic growth and whether they place Florida-based small businesses at a competitive disadvantage. Furthermore, taxpayers have no way of knowing whether multistate corporations and other large, profitable businesses pay their fair share of taxes – or anything at all – on the money they make in Florida.

These problems with current tax and budget policies can be addressed by requiring more transparency, more accountability, and more certainty that companies pay their fair share toward building an economy that spurs investment and improves the quality of life for businesses and residents alike.

This report was researched and written by Alan Stonecipher. The report and its findings do not necessarily reflect the views of the FCFEP Board of Directors.

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