HB 3457A: A great step forward for the SIP

Joint Committee on Tax Expenditures—Jody Wiser—5.19.2023

My name is Jody Wiser and I am representing Tax Fairness Oregon, a network of tax and revenue watchdogs.

We support HB 3457A and urge you to pass it, with some minor but significant changes.

The SIP has never had a sunset, so just adding one is a win!
Twice there have been minor changes to the SIP since 1993, including increasing the cap on the Community Service Fee and adding the $50 million threshold for rural SIPs. But it is reassuring to know that every six years the legislature will revisit this spending program which is projected to provide $755 million in tax breaks to businesses in the coming biennium.

The bill increases the cap on the Community Service Fee from $2.5 to $5 million. This too is good. We believe that so far only Intel has reached the cap but new data center agreements could also. Under current law, between the tax on $100 million and the $2.5 cap on the Community Service Fee, an urban SIP business pays the same amount whether their investment is assessed at $670 million or $3 billion. Industry needs to appreciate how generous this is.

Indexing the amounts upon which taxes are paid is also an important change. True indexing would bring $100 million to $205 million rather than $150. With full indexing the increase would mean $1.8 million annually, rather than the $875,000 for a SIP business under the -A.

Talk justifying Gain Share omits some important factors:

- 32% of property taxes are part of the funding formula for K-12, ESDs and Community Colleges—essentially state funding.
- What local communities collect in negotiated fees, construction fees, franchise fees and charitable giving is seldom mentioned or reported.
- Local communities collect property taxes on the homes of these generally well-paid employees. In my Washington County neighborhood that's $9000 a year per home.
- It's the local communities that are negotiating the agreements, not the state.
- Most Oregon communities would love to negotiate a SIP agreement, even without Gain Share.

We've heard comments that a reduction in Gain Share means that companies won't want to locate in Oregon. This is a myth. Gain Share funds go to counties, not to businesses. Companies could care less about Gain Share. This bill reduces Washington County's distribution by $11 million out of county and Hillsboro budgets totaling $2.6 billion. It has no impact on any other county in the state and will have no impact on recruiting a single company whose investment qualifies for a SIP.

There are a number of issues with the SIP which are not yet addressed in the bill.

1) **Create annual indexing going forward** for both tax payments and community service fees.

2) **Add pay requirements for the SIP. There are none, just as there are none for Portland and Salem enterprise zones.** Currently businesses that would not get even a 4-year tax break in Pendleton or elsewhere in eastern Oregon can get a 15-year one in Marion, Multnomah or other metro counties.

   In the past SIP jobs have been well paying. The new Columbia Distributing warehouse shows that SIP agreements need a pay requirement. The average pay at Columbia Distributing is significantly below the average in Clackamas County. In Umatilla County and the rest of rural Oregon, the average pay for employees at an enterprise zone facility must be 100% of a county's average wage, why would we not have a similar wage requirement for employees under the SIP in Clackamas County?

3) **Change the effective date clause to include increases for current agreements as well as new agreements.** Intel's current SIP agreement is for 30 years and $100 billion of investment. They started the 30-year clock in 2018 or 2019, so there would be no change for decades. In reading the Intel agreement, changes in statutes, rules or court decisions are anticipated. It seems that you could make changes effective for all current agreements, not just new ones signed in 2024 or later. My written testimony includes the language of the agreement.

   > *"Unless Oregon law provides otherwise the first $100 million in real market value for each investment, increased annually for growth at the rate of three percent shall be taxable at its assessed value as provided by law". (Section 5.2) Additionally it says "In the event that any statutes, administrative rules or court decisions regarding classification of property or otherwise applicable to the implementation of the provisions of this Section 5.4 are changed after the effective date of this Agreement, the parties will seek to have DOR apply the provisions of the Section 5.4 notwithstanding such changes. Should the DOR be unable or unwilling to apply the terms of this Section 5.4 in light of such changes, however, then the changes shall control in the event of a conflict."*

   In general we don't like changing the rules in the middle of the game, but the SIP is a 15-year, not a 30-year program.

4) **Exclude fulfillment centers and retail warehouses** from eligibility for SIPs. They are retail operations competing with our local small businesses and retailers who are not eligible for property tax breaks. Likewise **exclude urban data centers**.

5) **In Strategic Investment Zones** the Community Service Fees and exemption levels should be increased and indexed for inflation just like elsewhere.

6) **Align Business Oregon assistance and training standards.** Business Oregon will provide assistance upon request in one of the bills before you today while the other says someone from the negotiating team must receive training from Business Oregon. Agreements for both enterprise zones and SIPs can be for projects with $100 million or $1 billion of investment, should the assistance provided be similar?

The semiconductor industry advocates need to appreciate that the SIP is used across the state. Changes in the law are necessary because of the broad use of the SIP and the new industries that have emerged since our SIP law was written. HB 3457A will affect new wind and solar farms, distribution centers, data centers, etc., possibly food and wood processing facilities and new technology facilities, as well as Intel sooner or later—and who knows what AI or other business ventures of the future.

The changes in the current version of the bill and the improvements that TFO suggests modernize this important business program.

We are very pleased this legislature has decided to address issues with the SIP and Enterprise Zone programs that will spend over a billion dollars next biennium. This kind of spending deserves clear-eyed scrutiny. We urge you to support making changes to these economic development programs.