RESOLUTION NO. R-18-17

A RESOLUTION STRONGLY OPPOSING THE PASSAGE OF HB 49 BY THE OHIO GENERAL ASSEMBLY WHICH PROPOSES CENTRALIZED COLLECTION OF MUNICIPAL NET PROFIT TAX RETURNS AND CHANGES TO THE CURRENT THROWBACK PROVISION CREATING A LOSS OF REVENUE AND DECLARING AN EMERGENCY.

WHEREAS, the language in House-passed version of HB 49 includes provisions that would further erode the revenue of municipalities throughout Ohio by mandating that business net profit filers could file either with the municipal tax administrator or with the Ohio Department of Taxation, with the Ohio Department of Taxation processing returns and distributing revenue to municipalities; and

WHEREAS, this proposed language also includes a provision that would eliminate portion of the sales factor, known as “throwback”, substantially reducing reportable tax revenue to municipalities with warehouses, distribution centers, and any business providing online sales, and creating sales that are not taxed by any municipality; and

WHEREAS, municipalities have suffered substantial revenue losses forced by the State in the form of unfunded mandates, requiring many municipalities to reduce credits or take income tax increases to the electorate, pushing the unfunded mandates down to the individual taxpayers, and hindering the ability of municipalities to provide basic services to residents and resident businesses alike; and

WHEREAS, this proposal would provide disparity in treatment between taxpayers who choose to file with the municipal tax administrator, and those who choose to file with the Ohio Department of Taxation, including but not limited to differences in laws, rules, regulations, audits, reviews for accuracy, due dates, appeals, and provides businesses with a filing option with the Ohio Department of Taxation that would result in minimal, if any, review of their tax filing; and

WHEREAS, the proposed 1% fee to be charged to municipalities exceeds the prorated portion of the cost of collection for net profit tax return filings for the municipality, which increases costs associated with this segment of taxpayers; and

WHEREAS, municipalities have been responsive, with assistance from the Ohio Municipal League, to requirements to quickly pass uniform municipal income tax codes, change administrative procedures, adhere to requirements of Section 718 of the Revised Code, change online information and restructure forms for taxpayer use, and all other provisions as required, as demonstrated after the passage of HB 5 on December 14, 2014, effective January 1, 2016, all at an additional cost to the municipality; and

WHEREAS, municipalities provide personal service and assistance to taxpayers in the preparation and filing of their tax reports and returns, provide equitable treatment of all taxpayers, prompt and proper auditing of local tax returns to ensure all applicable deductions and declarations are reported, thus also ensuring that all taxpayers pay their fair share without causing higher costs of compliance for all, and must be able to do so without burdensome and costly restrictions included in HB 49 created with the only purpose of restricting municipalities from ensuring compliance by correcting / auditing business return filings or making assessments; and

WHEREAS, provisions in this bill hamper every municipality's ability to audit and correct municipal income tax business returns, to equitably enforce the municipal income tax laws, 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, municipalities must protect their single largest revenue source, which provides essential municipal services, promotes the health, safety, general welfare and creates a positive quality of life that residents and businesses alike rely upon, and any forced reduction in this revenue will have a negative impact on residents and businesses, creating an environment detrimental to retaining and attracting business in Ohio.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO

Section 1 – That this Council does hereby declare its strong opposition to any effort by the Ohio General Assembly to pass legislation that creates "unfunded mandates" and a loss of revenue under the guise of simplicity of filing business municipal income tax returns.

Section 2 – That this Council urges its state legislators to reject HB 49, any amendment(s) to pending bills and opposes the introduction of new legislation that proposes to reduce municipal income tax revenue to municipalities in Ohio.

Section 3 – That the Ohio General Assembly should request the immediate removal of all language pertaining to municipal income tax collection and administration by the Ohio Department of Taxation, should remove all language pertaining to the "throwback" provision and reinstate current law, and should promote upcoming changes to the Ohio Business Gateway as a solution for businesses to file municipal income tax returns in a more simple and efficient manner, with the Ohio Business Gateway continuing to act only as a portal to remit payments and filing information directly to municipalities, and not to the Ohio Department of Taxation for processing.

Section 4- That it is found and determined that all formal actions of the Council of the City of Avon concerning and relating to the adoption of this Resolution were taken in an open meeting of the Council of the City of Avon and that all deliberations of this City's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 – That this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and for the further reason that the City must maintain revenue levels without threat of assault via legislation proposed by the Ohio

General Assembly; therefore, this Resolution shall be in full force and effect immediately upon its adoption by Council, and approval by the Mayor.

PASSED: ________________________ DATE SIGNED:____________________________

By: ____________________________________
Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: __________________

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Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

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John A. Gasior, Law Director

ATTEST:

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Barbara Brooks
Clerk of Council

Posted: ______________________
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director