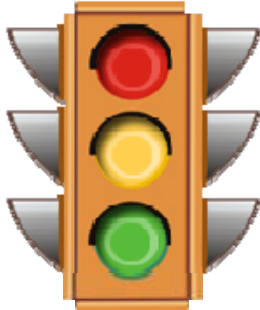


**OHIO MUNICIPAL COALITION COMPARISON ANALYSIS OF H.B. 5 AS INTRODUCED,
SPONSORS' PROPOSED SUBSTITUTE H.B. 5 AND MUNICIPAL PROPOSAL SUBSTITUTE H.B. 5**

(9/23/13)

<p>KEY</p> <p>Oppose</p> <p>Some language revisions needed to reach agreement</p> <p>Support</p>			
<p><u>H.B. 5 PROVISIONS, AS INTRODUCED</u></p>	<p><u>SPONSORS' PROPOSED SUB. H.B. 5 (June Version – LSC 130 0474-1)</u></p>	<p><u>MUNICIPAL PROPOSAL SUB. H.B. 5</u></p>	<p><u>RATIONALE FOR MUNICIPAL PROPOSAL TREATMENT</u></p>
<p>I. S Corporations, Net Operating Loss Carryforwards, Offsets and Pass-Through Entities:</p>			
<p>a. Eliminates residence tax exemption for S Corporation (“S Corp”) owners.</p>	<p>Remains as drafted in H.B. 5.</p> <p>No specific reference. Accomplished by elimination of language currently contained in Ohio Revised Code (“O.R.C.”) 718.</p>	<p>Reinstates residence tax exemption for S Corp owners as it exists under current law.</p> <p>718.01(C)(16), pp. 4-5</p>	<p>Retains status quo with regard to treatment of resident owners of S corps, eliminating the tax increase drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.</p>
<p>b. Resident partners of pass-through entities (“PTEs”) allowed to offset any type of municipal taxable income by pass-through losses.</p>	<p>Resident owners of PTEs allowed to offset other PTE income by any PTE losses. May not offset other, non PTE, income with PTE losses.</p> <p>L. 263-266, 718.01(B)(1), p. 9 L. 509-517, 718.01(E)(10), p.17</p>	<p>For resident purposes, municipalities are required to indicate by ordinance, rule or regulation, if, and in what manner, distributive share losses of a PTE are to offset distributive share gains from other PTEs.</p> <p>718.01(B)(1)(a)(i), pp. 1-2</p> <p>Distributive share losses from S corps may only be allowed as deduction if S corp distributive share gains are subject to tax of the municipality.</p>	<p>Permits municipalities to determine how to treat offsets of gains and losses, eliminating potential tax increases and obtaining municipal revenue neutrality.</p> <p>Retains status quo, ensuring that offsets involving S corp losses are limited to municipalities that are permitted to tax S corp distributive share gains as provided in 1(a).</p>

			718.01(B)(1)(a)(ii), p. 2	
c.	Mandates 5- year NOL CF. Current law allows municipalities the option of either permitting a NOL CF or not allowing an NOL CF.	Remains as drafted in H.B. 5. L. 431-481, 718.01(E)(8),(9), pp. 15-16	Municipalities with 0, 1, 3 and 5-year NOL CFs are grandfathered in and able to retain current NOL CF. Municipalities offering NOL CF other than 0, 1, 3 or 5 (ex. 2, 7, 10) required to round down to the nearest NOL CF of 0, 1, 3 or 5. New municipalities levying and imposing a tax after bill becomes effective are required to offer NOL CF of 5 years; does not include newly formed JEDDs or JEDZs. 718.01(E)(8), pp. 6-7	Creates uniformity, while avoiding <i>significant</i> municipal revenue losses that would be sustained from imposing a mandatory 5-year NOL CF as drafted in H.B. 5 and Sponsors' Proposed Sub. H.B. 5. Creates further uniformity by restricting NOL CFs to only four possible treatments. Ensures future uniformity by requiring a 5-year NOL CF for municipalities first imposing an income tax on or after January 1, 2015. JEDDs and JEDZs formed on or after January 1, 2015 administer NOL CF consistent with the municipality that is a party to the JEDD or JEDZ contract, and are not considered a newly imposed tax.
d.	H.B. 5 silent.	Exempt income in the hands of a PTE is also exempt in the hands of the owners (i.e., intangible income for the PTE is intangible in the hands of the owner). Codifies existing case law (<i>Tetlak v. Bratenahl</i> , 92 Ohio St. 46 [2001]) L. 374-378, 718.01(C)(17), p.13 But, see (1)(e) re: conflicting language.	Remains as drafted in H.B. 5 - silent.	As municipal proposal is drafted largely from H.B. 5 as introduced, the proposal is silent on this provision.
e.	Removes all income reported by TPs on Schedules C, E & F from definition of "intangible income."	Remains as drafted in H.B. 5. L. 383, 718.01(D)(2), p. 13	Definition of "intangible income" amended to remove language exempting income reported on	Retains the uniform status quo as to intangible income, eliminating the tax increase drafted in H.B. 5 and Sponsors'

	Intangible income is exempt from taxation. Adds federal form 4797 to definition of “net profit” for individuals.	L. 668-672, 718.01(S), p. 22	Schedules C, E & F from definition. Federal form 4797 remains added to definition of “net profit” for individuals. 718.01(S), p. 11 718.01(D)(2), p. 5	Proposed Sub. H.B. 5.
f.	H.B. 5 ambiguous on credits to be provided by resident municipality for tax paid by a resident receiving PTE income.	Requires resident municipality to provide a 100% credit to residents for tax paid by the PTE in another community – even if credit to other residents is reduced. L. 1853-1859, 718.04(E)(2), p. 61	Municipalities authorized to grant a credit to residents for taxes paid to other municipalities; municipality provides for the credit percentage permitted by ordinance or resolution. 718.04(D), p. 30	Retains status quo, eliminating <i>significant</i> municipal revenue losses and maintaining equal application of the resident credit among resident taxpayers.
g.	Consolidated net profit returns must be based on consolidated federal taxable income of an affiliated group as filed with the IRS; specifies that consolidated federal taxable income is the basis for determining municipal AFTI.	Remains as drafted in H.B. 5 except it provides that PTE does not pay municipal income tax if the PTE’s income passes through to the affiliated group’s consolidated income, and percentage ownership of PTEs is no longer a factor. L. 2164-2243, 718.06, pp. 71-73	Affiliated group may elect or be required by the tax administrator to file a federal consolidated return. Also eliminates the percentages associated with net profit and loss of a PTE. 718.06, pp. 36-38	Retains H.B. 5 language that establishes uniformity in the administration of consolidated returns and establishes that the affiliated group will remove/add back PTE gains and losses.
h.	Requires PTEs to withhold and remit the net profit tax due to a municipality, based on the entity’s net profits earned in a municipality, on behalf of each partner/owner of the PTE. Defines partnerships, S Corps, or any other entity given pass-through treatment for federal income tax purposes, but excluding trusts, estates, grantor trusts and single-member LLCs, as PTEs.	All PTEs will be taxed at the entity level. Resident owners of PTEs report income in resident community, but community must allow a 100% credit for taxes paid by the PTE to another municipality. This credit is required even if all other residents are permitted a reduced credit for income earned outside of the resident community. L. 489-495, 718.01, p. 17	All PTEs will be taxed at the entity level. Resident owners of PTEs report income in resident community, subject to the credit provided by the resident municipality. 718.01(B), pp. 1-2 718.43, pp. 68-69	Creates uniformity in treatment of PTEs and clarifies that the credit permitted is to be set by the municipality as provided in 1(f).

		See (1)(f), 718.04, p. 61		
2.	Supplemental Executive Retirement Plans (“SERPs”):			
a.	Definition of exempt pension and retirement benefits excluded amounts included in qualifying wages (e.g., SERPs included in qualifying wages, would be taxable).	Definition of exempt pension and retirement benefits would include SERPs (SERPs not taxable). L. 296-307, 718.01(C)(3), pp.10-11	Language defers the determination of whether SERPs are subject to municipal taxation to the decision of the courts. 718.01(C)(3), p. 3	As the issue is currently being litigated, with the case currently pending before the 10 th District Court of Appeals, there is no need for treatment to be written into statute.
3.	Audit, Assessment and Legal:			
a.	Adds definition of “audit” as “the examination of a person or the inspection of the books, records, memoranda, or accounts of a person for purpose of determining liability for a municipal income tax, provided the tax administrator has contacted the person in writing, via telecommunication, or in person, regarding the examination or to request additional data.”	Remains substantially as drafted in H.B. 5 with addition of some activities that are not an “audit.” L. 712-735, 718.01(BB), p. 24	Language struck. Adds listing of items to be included with a municipal income tax return, amended return or application for refund. 718.01(BB), p. 12 718.05(E), p. 31 718.36, pp. 61-62	Creates uniformity in documents and information required to be included by a taxpayer when filing a return or request for a refund, without <i>substantially</i> inhibiting municipal compliance procedures, as would be the case with the definition of “audit” as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.
b.	Adds definition of “assessment” as “written finding by the tax administrator that a person has underpaid municipal income tax, or owes penalty and interest that commences the person’s time limitation for making an appeal to the local board of tax review...and has ‘ASSESSMENT’ written in all capital letters at the top of such finding.” Assessment also includes the denial in whole or in part of “qualified” refund claims. “Qualified Refund Claim” is defined as “a refund claim made on a timely filed	Remains as drafted in H.B. 5. L. 808-825, 718.01(PP), p. 27	Term “assessment” struck from H.B. 5 and replaced with “written determination of the tax administrator,” which excludes denial of refund claims, issuance of billing statements, miscellaneous correspondence, including notification of mathematical errors, and/or a tax administrator’s request for additional information from the definition. 718.01(NN), p. 13 718.11, 44-45	Creates uniformity with regard to the manner in which a taxpayer requests and receives a ruling from a tax administrator, which is subject to appeal to the local board of review, without <i>substantially</i> inhibiting municipal compliance procedures, as would be the case with the definition of “assessment” as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.

	amended tax return.”			
c.	Assessments issued by municipalities (including the denial of a qualified refund claim) must include notification by personal service, certified mail or authorized delivery service of appeal rights to the local board of tax review. TPs have 60 days after receipt of assessment notice to appeal. Local boards of tax review shall schedule a hearing within 60 days of receiving appeal request. Eliminates most criminal prosecutions and all civil filings against TPs & replaces with certification filed with the county clerk of court of common pleas for judgment entry in the county in which the municipal corporation is located.	Remains as drafted in H.B. 5 with the restoration of <u>limited</u> criminal proceedings with greater burden of proof for prosecution (willful and knowing). Civil actions not restored. L. 2698-2861, 718.12, pp. 88-93 L. 2951-3045, 718.18, pp. 96-99 L. 3847-3887, 718.99, pp. 125-126	See 3(b). Removes statutory lien process. Restores criminal/civil filings and statute of limitations, providing for tolling of the statute of limitations during appeals. 718.12, pp. 45-49 718.18, pp. 50-52	Retains the requirement that taxpayers receive notice of a “written determination of a tax administrator” and corresponding appellate process via certified mail creating uniformity in municipal procedure, while eliminating the <i>significant</i> cost increases and complex notification requirements associated with the original definition of “assessment” as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5. Retains the uniform status quo with regard to the use of criminal and civil filings for enforcement. Provides for the tolling of the applicable statute of limitations during a pending administrative appeal to eliminate the need of the municipality to file an action due to an impending limitation expiration, even while the underlying tax issue remains the subject of an open appeal.
d.	Mandates same notification and TP appeal right requirements to TPs for reductions or denials of certified refund requests as for assessments. Allows ordinary mail notification for reduction of refunds other than qualified refunds.	Remains substantially as drafted in H.B. 5. L. 817-828, 718.01(PP),(QQ), pp. 27-28 L. 3105-3137, 718.19(E), pp.101-102	Language struck. 718.01(NN)(2), p. 13 718.19(E), p. 53	Creates uniformity in municipal process as a taxpayer may request a “written determination of the tax administrator” with respect to the denial of a refund, without <i>substantially</i> inhibiting municipal compliance procedures, as would be the case with the definition of “qualified refund claim” as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.
e.	Adds Ohio Secretary of State as agent for service of process or notice for assessments, actions or proceedings against non-resident	Remains as drafted in H.B. 5. L. 3173-3209, 718.21, pp. 103-104	Language struck in keeping with the restoration of civil litigation and criminal actions.	Imposes an unnecessary municipal procedure as service of process is already subject to the Ohio Rules of

	individuals & foreign corporations.		718.21, p. 54	Civil Procedure.
f.	Permits TPs “aggrieved by an action or omission” of a tax administrator or employees related to audits or assessments to bring an action for damages in common pleas court against the tax administrator, municipality, or both. The TP can bring the action for damages in common pleas court only if the action or omission resulted from frivolous disregard of O.R.C. 718 provisions, MTPB rules, or tax administrator instructions.	Remains as drafted in H.B. 5, except all references to MTPB eliminated. L. 3695-3754, 718.39, pp. 120-122	Language struck. 718.39, pp.64-65	Imposes an excessive and unnecessary burden on a tax administrator and/or municipal employee by subjecting the individual to personal liability for conduct while acting as an employee of the municipality. H.B. 5 and Sponsors’ Proposed Sub. H.B. 5 also provided that a taxpayer may be penalized up to \$10,000 for frivolous conduct, with the penalty paid not to the injured municipality, but to the general revenue fund of the State of Ohio.
g.	Eliminates ability to appeal from decision of local board of tax review to the court of common pleas.	Reinstates the ability to appeal a local board of tax review decision to the court of common pleas. L. 3982-4029, 5707.011, p. 130	Reinstates the ability to appeal a local board of tax review decision to either the court of common pleas or the Ohio Board of Tax Appeals, and establishes a standard of review for the Ohio BTA. 5707.011, pp.72-74	Retains the uniform status quo with regard to appellate paths from decisions of the local boards of review, while establishing an appropriate standard of review for the Ohio BTA hearing appeals from local boards of review. As an appellate body, the BTA should function under the same standard of review currently in place in the court of common pleas as the BTA and court of common pleas are parallel tracks of appellate review.
h.	In a taxpayer’s appeal of an assessment, the unsuccessful party on appeal is responsible for the other’s reasonable costs of litigation and attorneys’ fees.	Remains as drafted in H.B. 5. L. 3815-3830, 718.44, pp. 124-125	Language struck as it relates to assessments; parties are responsible for their own costs of litigation and attorney’s fees. 718.44, p. 69	Retains uniform status quo, requiring each party to be responsible for their own costs of litigation; the “American Rule.”
i.	Authorizes tax administrators to issue jeopardy assessments if the collection of the tax would be in jeopardy if the action is delayed or if conditions	Remains as drafted in H.B. 5. L. 3140-3172, 718.20, pp. 102-103	Language struck. 718.20, pp. 53-54	Imposes an unnecessary municipal procedure as provisions currently exist in the Ohio Rules of Civil Procedure allowing for pre-judgment attachment, consistent with municipalities’ use of

	would impede collection.			civil suits to recover unpaid tax.
j.	H.B. silent.	Authorizes a tax administrator to impose a penalty equal to \$500 each time a person fails to comply with a subpoena. L. 3471-3476, 718.27(H), p. 113	Remains as drafted in H.B. 5 – silent.	As municipal proposal is drafted largely from H.B. 5 as introduced, the proposal is silent on this provision. Further, Sponsors’ Proposed Sub. H.B. 5 imposes an unnecessary and excessive penalty on the taxpayer as municipalities currently impose penalties and/or sanctions for failure to respond to administrative subpoenas, failure to produce records, etc.
k.	Permits a tax administrator to compromise tax claims and allowing a taxpayer to pay an outstanding liability over time, but provides that specific conditions be met prior to such compromise.	Remains as drafted in H.B. 5. L. 3477-3528, 718.28, pp. 113-115	Remains as drafted in H.B. 5, but eliminates the conditions and limitations imposed. 718.28, pp. 59-60	Imposes an unnecessary and excessive burden on municipalities and taxpayers in compromising outstanding liabilities; municipalities should be permitted to negotiate terms that are tailored to the individual taxpayer.
l.	Specifies make-up of local boards of tax review as 3 members. Two of the members cannot be (or cannot have been) employees of the municipality. The 3 rd member may be an employee of municipality but may not be the director of finance, tax administrator, or any official involved in municipal income tax matters. Requires the tax administrator to post information related to the local board of tax review, including the address, names of the board members and rules. Municipalities which fail to post such information are prohibited from imposing penalties and interest.	Remains as drafted in H.B. 5. L. 2611-2615, 718.11(A)(3), p. 85 Remains as drafted in H.B. 5, but clarifies that prohibition against imposing penalties and interest is limited to municipalities that failed to post the information without “good cause.” L. 2686-2694, 718.11(G), pp. 87-88	Remains as drafted in H.B. 5, but clarifies that members appointed by the legislative authority may be reappointed. 718.11(A)(3), p.44 Language struck. 718.11(G), p. 45	Retains uniformity established by H.B. 5 as to the make-up of the local boards of review, but permits members to be reappointed to accommodate municipalities with smaller populations. Imposes an excessive penalty on tax administrators who fail to provide information which may not be readily accessible; municipalities are already required to provide a description of the appellate process and the address of the local board of tax review to taxpayers.

4.	12/20-Day Occasional Entrant Rule:			
a.	<p>Allows taxpayer to receive a refund of tax paid to principle place of work, required to be withheld by the employer to avoid withholding for occasional entrant community on 20 or fewer days</p>	<p>Taxes withheld for the principal place of work are not exempt, and taxpayer shall not be refunded tax on the basis of not performing work there, if withheld to avoid withholding for 20 or fewer day community – i.e., no “tax free” days.</p> <p>L. 363-367, 718.01(C)(15)(b)(ii), pp. 12-13</p> <p>But, see conflicting language at L. 923-926, 718.011(C), p. 31</p>	<p>Qualifying wages of an employee are subject to withholding in the principal place of work until the 20-day threshold is met, at which time the employer is required to withhold from day one for the occasional entrant municipality.</p> <p>Taxpayer is permitted a refund of the taxes withheld by the principal place of work/fixed location municipality based on performing personal services in another municipality, but is required to pay to the municipal corporation in which personal services were performed, any tax due.</p> <p>718.011, pp. 14-16</p>	<p>Creates uniformity, while providing the business community with an additional eight (8) days before an employer is required to withhold in the municipality in which personal services are being performed to ease the tracking burden created by the current 12-day threshold.</p> <p>Resolves constitutional concern that an employee may not be taxed by a municipality in which the employee did not either perform personal services or reside.</p>
b.	<p>Increases 12-day occasional entrant exemption to 20 days.</p>	<p>Remains as drafted in H.B. 5.</p> <p>See 4(a) re: conflicting language.</p> <p>L. 834-938, 718.011, pp. 28-31</p>	<p>Drafted so that employers are not required to withhold unless employee meets 20-day threshold; once exceed 20 days, employer must withhold from day 1.</p> <p>Employers with total gross receipts less than \$500,000 not required to withhold on employees working in multiple jurisdictions, regardless of how many days they may work in each municipality. Rather, employer</p>	<p>Creates uniformity, while avoiding <i>significant</i> municipal revenue losses from not withholding from day 1 as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.</p> <p>Creates withholding exemption for small businesses to ease the tracking burden created by the occasional entrant rule.</p>

			<p>required to withhold in municipality in which the principal place of work is located (compromise from \$150,000).</p> <p>Tax administrator of municipalities in which personal services are being performed by employees of an employer may request from the employer a copy of the employer's federal tax return from the prior taxable year indicating that total gross receipts are less than \$500,000.</p> <p>718.011(E), p. 15</p>	<p>Ensures that businesses that do not fall under the threshold continue withholding for employees in municipalities in which personal services are performed.</p>
c.	<p>Adds "Duty Days" as basis for taxing professional athletes.</p>	<p>Remains as drafted in H.B. 5.</p> <p>L. 939-960, 718.011(F), pp. 31-32</p>	<p>Language struck so that the bill defers the determination of how professional athletes are to be taxed to the courts and pending litigation.</p> <p>718.011(F), p. 16</p>	<p>As the issue is currently being litigated, with the case currently pending before the Ohio BTA, there is no need for treatment to be written into statute.</p>
d.	<p>Defines a work day as the preponderance of the day; "an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day."</p>	<p>Remains as drafted in H.B. 5.</p> <p>L. 889-915, 718.011(B)(2), p. 30</p>	<p>Remains as drafted in H.B. 5.</p> <p>718.011(B)(2), pp. 14-15</p>	<p>Creates uniformity in defining a day and eases the burden on employers with regard to tracking employees falling within the occasional entrant rule; makes Ohio more business friendly and competitive in comparison to other states.</p>
5.	Deminimus Thresholds:			
a.	<p>Creates \$5 deminimus tax due and refund amounts.</p>	<p>Remains as drafted in H.B. 5.</p> <p>L. 1909-1910, 718.05(F)(1), p. 62 L. 3046-3049, 718.19(A)(1), p. 99</p>	<p>Remains as drafted in H.B. 5.</p> <p>718.05(F), p. 32</p>	<p>Creates uniformity, while easing burden on taxpayers with a tax liability of less than \$5 by not requiring remittance of tax due.</p>

b.	Creates de minimus net profit thresholds based upon allocation percentage, tax due and wages paid.	Remains as drafted in H.B. 5. L. 1945-1965, 718.05(G), p.64	Drafted to provide net profit de minimus threshold of \$5, corresponding to the tax due and refund de minimus. 718.05(G), p. 32	Creates uniformity by aligning with the de minimus for all other taxpayers, while minimizing municipal revenue losses that would be sustained under the “three-prong” test as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.
c.	Creates an estimated payment de minimus threshold of \$200.	Remains as drafted in H.B. 5. L. 2292-2293, 718.08(B)(1), p. 75	Drafted to provide estimated payment de minimus of \$100 (compromised from \$50). 718.08(B)(1), p. 39	Creates uniformity, while minimizing municipal revenue losses that would be sustained under the \$200 de minimus as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5, noting that the compromise of \$100 will still cause some municipalities to experience a noticeable reduction in cash-flow during the first year of implementation.
6.	Penalty and Interest:			
a.	Specifies the use of interest rate proscribed by the State Tax Commissioner each year for underpayment of estimated taxes; specifies penalty rate limit of 10%, in addition to interest in these situations, for individuals and net profit.	Remains as drafted in H.B. 5. L. 3359-3429, 718.27, pp. 109-111	Establishes the interest rate at the federal short-term rate + 5%, a penalty for underpayment of individual and net profit taxes at federal short-term rate + 15% per annum, retaining a 50% flat penalty for underpayment of withholding tax, and a \$25 failure to timely file penalty for all returns. 718.27, pp. 57-58	Creates uniformity, while minimizing municipal revenue losses that would be sustained under H.B. 5 and Sponsors’ Proposed Sub. H.B. 5 and attempting to reduce any impact to municipal compliance efforts that may result from lower interest/penalty rates.
b.	Specifies interest rates & penalty limits related to late or non-payment of income taxes & estimated tax payments, withholding taxes & late-filing penalty. Authorizes municipalities to charge back to TPs any collection costs & fees.	Remains as drafted in H.B. 5. L. 3359-3476, 718.27, pp. 109-113	See 6(a).	See 6(a).
c.	Ties the interest rate on refunds to the interest rate prescribed by R.C.	Remains as drafted in H.B. 5	Establishes the interest rate for refunds as the federal short-term rate + 5%.	Creates uniformity, noting the municipal agreement that municipalities should pay to taxpayers the same rate of

	5703.47.	L. 3064-3086, 718.19(C), p. 100	718.12(D), p. 49	interest on late issued refunds as it collects from taxpayers on late paid liabilities.
7.	Reporting Requirements:			
a.	Requires State Tax Commissioner to provide any municipal income tax data acquired under O.R.C. 5745 to municipal tax administrators upon their request.	Remains as drafted in H.B. 5. L. 2089-2092, 718.051(H), p. 68	Provides timeframe in which the State Tax Commissioner must provide data and that no fee shall be charged. 718.051(H), p. 35	Clarifies procedure for providing information to municipalities.
b.	Requires tax administrators to report by June 15 th each year to the MTPB & to the State Tax Commissioner the amount of annual tax revenue collected in the prior calendar year. Those that fail to report are prohibited from imposing any penalty or interest.	Remains substantially as drafted in H.B. 5. Reporting requirements remain, the MTPB removed as the recipient of that reporting, in favor of the State Tax Commissioner. L. 2902-2922, 718.13(C)(1), pp. 94-95	Language struck. 718.13(C)(1), pg. 50	Eliminates double reporting; municipalities are already required by R.C. 5747.50 to report this information to the State. Municipal Coalition will propose changes to the currently prescribed form to include the specific information sought in H.B. 5 and Sponsors' Proposed Sub. H.B. 5.
8.	Residency/Domicile:			
a.	Adds definition of resident as both domiciled in Ohio per the State's bright-line test and domiciled in a municipality.	Replaces "bright-line test" with a codification of common law factors for determining residence. Only those factors listed are considered. L. 966-106, 718.012, pp. 32-35	Replaces "bright-line test" with a codification of 11 common law factors for determining residence as compromised by the parties. 718.01(J) and 718.012, pp. 8 and 16-18	Creates uniformity and provides guidance to taxpayers and municipalities when determining the domicile/residence of a taxpayer, while avoiding <i>significant</i> municipal revenue losses that would be sustained as drafted in H.B. 5 and Sponsors' Proposed Sub. H.B. 5.
9.	Apportionments:			
a.	Eliminates net profit sales apportionment "throw-back" provision.	Retains the sales apportionment "throw-back" provision. L. 1202-1222, 718.02(D), p. 40	Retains the sales apportionment "throw-back" provision as compromised by the parties. 718.02(D)(1), p.19	Retains the uniform status quo treatment of sales, while minimizing municipal revenue losses that would be sustained as drafted in H.B. 5.

b.	Adds apportionment provision for sales of services.	Remains as drafted in H.B. 5. L. 1227-1229, 718.02(D)(2), p. 41	Remains as drafted in H.B. 5. 718.02(D)(2), p.19	Creates uniformity.
10.	Real Estate:			
a.	Exempts rental income of residents from residence taxation when a rental activity not constituting a business or profession is located outside of the resident's municipality.	Rental income taxable in location of property and in resident community of owner. L. 1240-1244, 718.02(E), p. 41	Removes the exemption as set forth in H.B. 5; rental income taxable in location of property and in resident community of owner. 718.02(E), p.21	Retains the uniform status quo, codifying the current treatment for rental income.
b.	Real estate commissions taxable in the location of the property sold.	Remains as drafted in H.B. 5. L. 1280-1285, 718.02(F), p. 42	Commissions and net profits of real estate agents/brokers taxed at the location of the property sold. 718.02(G), p. 22	Creates uniformity and provides clarification as to treatment.
11.	Withholding:			
a.	Requires semi-monthly withholding payments if withholding > \$11,999 in the previous calendar year, or if it was > \$1,000 in any month of the previous quarter. Adds withholding due date of 3 banking days after the 15 th of month.	Remains as drafted in H.B. 5. L. 1470-1488, 718.03(B)(1), pp. 48-49	Remains as drafted in H.B. 5. 718.03(B)(1), pp. 23-24	Creates uniformity.
b.	Adds withholding due date of the 15 th day of the following month for monthly filers (withhold >\$2,399 per year).	Remains as drafted in H.B. 5. L. 1489-1503, 718.03(B)(2), p. 49	Remains as drafted in H.B. 5. 718.03(B)(2), p. 24	Creates uniformity.
c.	Adds withholding due date of the last day of the month following the end of a quarter (withhold < \$2,400 per year) for quarterly filers.	Remains as drafted in H.B. 5. L. 1504-1509, 718.03(B)(3), pp. 49-50	Drafted to include a due date of the 15th day of the month following the end of a quarter. 718.03(B)(3), p. 24	Creates uniformity.
d.	H.B. 5 silent.	Makes all withholding that is done, even if not required (courtesy	Remains as drafted in Sponsors'	Creates uniformity.

		withholding), subject to 718.03. L. 1584-1588, 718.03(K), p. 52	Proposed Sub. H.B. 5. 718.03(K), p. 26	
e.	In cases where an employer incorrectly paid withholding to a municipality, & the municipality that should have been paid has a tax rate > the tax rate of the municipality that was incorrectly paid, the municipality that should have been paid may assess the difference between the tax rates against the employer, during the period of incorrect payment.	Remains as drafted in H.B. 5. L. 2862-2882, 718.121, pp. 93-94	Remains as drafted in H.B. 5. 718.121, p. 49	Creates uniformity.
f.	H.B. 5 silent.	Remains as drafted in H.B. 5.	Authorizes municipalities, by ordinance, rule or regulation, to require an employer, agent, or other payer who accumulates \$100K or more in withholding taxes to electronically deposit the tax by the next business day. 718.03(B)(4), p. 24	Codifies the status quo to preserve many municipalities' requirement that employers utilize next day deposit.
g.	H.B. 5 silent.	Remains as drafted in H.B. 5.	Authorizes municipalities, by ordinance, rule or regulation, to require an employer, agent, or other payer to remit withholding taxes by electronic funds transfer. 718.03(B)(5), p. 24	Codifies the status quo to preserve many municipalities' requirement that employers utilize electronic funds transfer.
12.	Casino and Lottery:			
a.	Lottery & gambling winnings are included in definition of taxable income. Gambling losses can offset winnings to extent deductions are authorized under the Internal Revenue Code ("IRC"). Gambling losses must be allowed if	Remains as drafted in H.B. 5. L. 278-282, 718.01(B)(4), p. 10	Clarifies that <i>only</i> professional gamblers can offset gambling losses against gambling winnings. 718.01(B)(4), p. 3	Creates uniformity, while avoiding municipal revenue losses that would be sustained as drafted in H.B. 5 and Sponsors' Proposed Sub. H.B. 5; aligns with Ohio's treatment of lottery and gambling winnings/losses.

	“authorized” under the IRC “and claimed against such winnings.”			
b.	Requires a casino facility or lottery sales agent conducting video lottery terminals on behalf of the state & located within the municipal corporation to withhold & remit municipal income tax on winnings that must be withheld on for Internal Revenue Services (“IRS”) purposes.	Remains as drafted in H.B. 5. L. 1592-1763, 718.031, pp. 52-58	Remains as drafted in H.B. 5, but includes reference to R.C. sections 5747.063 and 5747.064. 718.031, pp. 26-28	Provides taxpayers reviewing Revised Code for law pertaining to casinos, lottery terminals, etc., with notice of other applicable sections, both R.C. 718 for municipal law and R.C. 5747 for state law.
13.	Definitions:			
a.	Ties O.R.C. 718 terms not otherwise defined in the bill to “same meaning as when used in a comparable context” for federal income tax (“FIT”) purposes or for Title LVII state income tax purposes.	Remains as drafted in H.B. 5. L. 222-233, 718.01, p. 8	Remains as drafted in H.B. 5. 718.01, p. 1	Creates uniformity.
b.	Adds definition for “Tax Administrator.”	Remains as drafted in H.B. 5. L. 678-693, 718.01(U), p. 23	Removes the restriction that third party administrators, other than RITA and CCA, must serve more than 31 municipal corporations. 718.01(U)(3), p.11	Allows municipalities and organizations to administer and collect municipal income taxes on behalf other municipalities, regardless of the number of municipalities for which they collect and administer, creating a more competitive business climate.
c.	Adds definitions for “Related Member” and “Related Entity.”	Remains as drafted in H.B. 5. L. 771-807, 718.01(NN),(OO), pp. 26-27	Remains as drafted in H.B. 5. 718.01(LL),(MM), p. 13	Creates uniformity.
d.	Defines “Opinion of the Tax Administrator” & specifies procedures for requesting & issuing tax administrator opinions. Authorizes MTPB to issue opinions similar to tax administrator opinions, but only on issues having statewide application. MTPB opinions are	Remains as drafted in H.B. 5 with all references to the MTPB removed. L. 3613-3694, 718.38, pp. 117-120	Remains as drafted in H.B. 5, with all references to the MTPB removed. No specific reference. Accomplished by elimination of all reference to MTPB.	Creates uniformity in municipal process, while eliminating loss of local control from imposition of the MTPB as drafted in H.B. 5 and Sponsors’ Proposed Sub. H.B. 5.

	binding for all municipalities.			
e.	H.B. 5 silent.	Remains as drafted in H.B. 5.	Definition of "Taxpayer" reinstates language from current law regarding subchapter S subsidiaries. 718.01(L)(1), pp. 8-9	Retains the uniform status quo.
f.	Excludes grantor trusts from the definitions of "person" and "pass-through entity."	Excludes grantor trusts from the definition of "taxpayer." L. 575-589, 718.01(M), (N), pp. 19-20	Remains as drafted in H.B. 5. 718.01(M) and (N), p. 9	Creates uniformity.
14.	Municipal Tax Policy Board:			
a.	Creates the Municipal Tax Policy Board ("MTPB")	Removes all references to MTPB. No specific reference. Accomplished by elimination of all reference to MTPB.	Language struck as compromised between the parties. No specific reference. Accomplished by elimination of all reference to MTPB.	Eliminates <i>significant</i> loss of local control as drafted in H.B. 5.
15.	Problem Resolution Officer:			
a.	Requires appointment by municipalities with populations >30,000 of a "Problem Resolution Officer" to receive & review inquiries & complaints about matters pending with municipal tax administrators "for an unreasonable length of time" or for "unsatisfactory responses."	Removes all references to PRO. No specific reference. Accomplished by elimination of all references to PRO.	Language struck as compromised between the parties. 718.37, p. 62	Eliminates loss of local control with regard to municipal employment makeup and job descriptions as drafted in H.B. 5.
16.	Miscellaneous Provisions:			
a.	Qualifying wage income of individuals under 18 years old is taxable.	Remains as drafted in H.B. 5. L. 350-351, 718.01(C)(14), p. 12	Remains as drafted in H.B. 5. 718.01(C)(14), p. 4	Although provision provides for a minor possible tax increase to individuals under the age of 18 (dependent upon the age provided in each municipalities' current ordinance), the increase is far

				outweighed by the benefit of uniformity.
b.	Exempts any “JobsOhio” income from liquor distribution & merchandising activities, & income earned by an entity contracting with the State to provide highway services on behalf of the State.	Remains as drafted in H.B. 5. L. 427-430, 718.01(E)(7), p. 15	Remains as drafted in H.B. 5. 718.01(E)(7), p. 6	Retains uniform status quo.
c.	“Patronage dividends” must be deducted from municipal Adjusted Federal Taxable Income (“AFTI”).	Remains as drafted in H.B. 5. L. 482-488, 718.01(E)(10), p. 16	Language struck. 718.01(E)(10), p. 8	Retains uniform status quo as patronage dividends are taxable under current law, while eliminating municipal revenue loss that would be sustained as drafted in H.B. 5 and Sponsor’s Sub. H.B. 5.
d.	Eliminates deduction allowed for individuals with federal form 2106 unreimbursed employee business expenses.	Remains as drafted in H.B. 5. No specific reference. Accomplished by elimination of language currently contained in O.R.C. 718.	Remains as drafted in H.B. 5. No specific reference. Accomplished by elimination of language currently contained in O.R.C. 718.	Although provision provides for a minor tax increase to individuals, the increase is far outweighed by the benefit of uniformity and elimination of the <i>significant</i> municipal burden of administering the deduction.
e.	H.B. 5 silent.	Specific exemption for compensation paid to members of corporate Boards of Directors, taxable only in residence community. L. 370-378, 718.01(C)(17), p. 13 L. 961-965, 718.011(G), p. 32	Remains as drafted in H.B. 5 - silent.	As municipal proposal is drafted largely from H.B. 5 as introduced, the proposal is silent on this provision.
f.	Allows an alternative apportionment method for net profit returns to be used on an amended return or an appeal of an assessment without prior approval of the tax administrator.	Remains as drafted in H.B. 5. L. 1144-1157, 718.02(B)(2), p. 38	Does not allow an alternative apportionment method for net profit returns to be used on an amended return without prior approval of the tax administrator. 718.02(B)(2), p.18	Retains uniform status quo.
g.	Requires municipalities by 12/31/14 to either amend their ordinances to specifically adopt by reference all provisions of proposed O.R.C. 718,	Remains substantially as drafted in H.B. 5, with new organization of the language, but the same impact.	Provides that municipalities are not authorized to have ordinances, resolutions, rules and/or regulations in place that conflict with R.C. 718 as	Creates uniformity, while eliminating the <i>significant</i> loss of local control as drafted in H.B. 5.

	or repeal their income tax ordinance.	L. 1794-1825, 718.04(B),(C), pp. 59-60	will be introduced. 718.04(A)(6),(B), p. 27	
h.	Allows a TP that files an amended return to pay any unpaid balance due reported on the amended return in equal installments on or before “the remaining payment dates.”	Drafting error corrected – “declaration” replaces the word “return.” L. 2348, 718.08(C)(2), p. 77	Replaces the term “return” with “declaration.” 718.08(C)(2), p. 40	Corrects drafting error in H.B. 5.
i.	Reinstates 3 municipal tax administrator representatives to Ohio Business Gateway (“OBG”) steering committee; adds the chair of the MTPB as the 4 th municipal tax administrator member.	Remains as drafted in H.B. 5. Removes all references to MTPB. L. 3939-3940, 5703.57, p. 128	Drafted so that 3 municipal tax administrators are selected by the Governor from a list of candidates provided by the OML. Removes all references to MTPB. 5703.57(C)(1)(b), p.71	Removes <i>significant</i> loss of local control.
j.	H.B. 5 silent.	Provides that guaranteed payments to partners for the use of capital treated as payment of interest under Section 469 of the Internal Revenue Code or Unites Dates treasury regulations shall be allowed as a deductible expense of a partnership. This represents a specific exception from the general rule, in current law and H.B. 5, that no guaranteed payments to partners are deductible expenses of a partnership. L. 496-500, 718.01(E)(10), p. 17	Remains as drafted in H.B. 5 – silent.	Retains uniform status quo as guaranteed payments are taxable under current law, while eliminating municipal revenue loss that would be sustained as drafted in the Sponsor’s Sub. H.B. 5.
k.	Eliminates an adjustment required for calculating adjusted federal taxable income (net profits) when stock options are not taxed at the employee level in a municipality.	Restores the adjustment as contained in current O.R.C. 718. L. 1300-1316, 718.02(I), p. 43	Restores the adjustment as contained in current O.R.C. 718. 718.02(F), pp. 21-22	Retains uniform status quo.

l.	Permits a municipal corporation to retain federal adjusted gross income ("FAGI") as the tax base for individual residents if authorized prior to December 31, 2011.	Permits a municipal corporation to retain Ohio adjusted gross income ("AGI") with exemptions as the tax base for individual residents if authorized prior to December 31, 2011. L. 244-256, 781.01(A)(3), p. 9	Remains as drafted in H.B. 5. 718.01(B)(1)(b), p. 2	Retains status quo.
m.	H.B. 5 silent	Remains as drafted in H.B. 5.	Permits tax administrator to request any information, statements, documents, etc. from a taxpayer necessary to determine and verify the taxpayer's municipal tax liability. 718.05(E)(5), p. 31	Codifies current uniform law provided in municipal income tax ordinances.
n.	Permits active-duty National Guard members and military reservists to request filing and payment extensions for the period of active duty and 180-days subsequent to the termination of active duty. Provides specific repayment terms for installment arrangements.	Remains as drafted in H.B. 5. L. 2093-2163, 718.052, pp. 68-71	Remains as drafted in H.B. 5, but eliminates the repayment terms for installment arrangements. 718.052, pp. 35-36	Eliminates loss of local control by permitting municipalities the ability to negotiate repayment agreements on a case-by-case basis and in accordance with the taxpayer's financial circumstances.
o.	Prohibits municipalities from evaluating employees on the basis of a quota system re: number of assessments issued.	Language struck. No specific reference. Accomplished by elimination of all references to PRO.	Language struck. 718.37, p. 62	Eliminates loss of local control and overreaching language into municipalities' review of employees.
p.	H.B. 5 silent.	Remains as drafted in H.B. 5.	Requires municipal corporations to allow taxpayers to file net profit return extension via OBG. 718.051(A), p.34 Requires OBG to accept and transmit PDF files of supplemental	Makes OBG a more useful tool to taxpayers.

			<p>information required to be included with a net profit return by 1/1/2015.</p> <p>Section 4, p. 82</p>	
q.	H.B. 5 silent.	Remains as drafted in H.B. 5.	<p>Requires that the General Assembly for a municipal income tax study committee to analyze and research the revenue impacts of the NOL CFs.</p> <p>Section 5, p. 83</p>	