



January 16, 2015

RE: Proposed Statement on Tax Abatement Disclosures Project No. 19-20E

Via email to: director@qasb.org

Mr. David R. Bean, CPA
Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856

Dear Mr. Bean:

The Education Law Center (ELC) appreciates the opportunity to comment on the Governmental Accounting Standards Board's (GASB) Exposure Draft of the Proposed Statement on Tax Abatement Disclosures. Founded in 1973, ELC is a non-profit organization advocating on behalf of public school children in the United States. Throughout its history, ELC has worked to promote fair and adequate school funding in support of equal educational opportunity. ELC recognizes the impacts of tax abatements on the ability of state and local governments and school districts to reach the twin goals of fair and adequate school funding.

ELC applauds the proposed standard because it holds the potential for positive benefits by improving the public's awareness of policymakers' tax abatement decisions and their often long-term negative impacts on state and, especially on, local and school district revenues and budgets.

Nevertheless, ELC suggests improving the proposed standard in three ways:

(1) GASB should change its conclusion on names of recipients [App. B24] and require disclosure of the name of subsidy recipients.

Transparency and providing publicly available data on recipients of economic development subsidies ("tax abatements") must include company name and address. Making subsidy recipient information publicly available increases the accountability

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of these programs. Recipients must be able to stand up to public scrutiny, and be able to show their progress in job creation, construction, or other quid pro quos in exchange for incentives from which they are benefitting.

(2) GASB should explicitly require greater transparency of all tax-based economic development subsidies, i.e. tax abatements, including as-of-right incentives, and Payments in Lieu of Taxes (PILOTs).

Using the umbrella phrase "tax abatements" for economic development tax breaks involving income, property, sales and other taxes, GASB's proposed standard will for the first time require state and local governments to report how much revenue they lose to economic development programs. However, it is important to ensure that the definition of "tax abatement" includes all forms of tax-based economic development subsidies including performance based incentives, as-of-right incentives, and Payments in Lieu of Taxes.

The Board's current definition of "tax abatement" which relies on the existence of an agreement, and "that the agreement precedes the reduction of taxes and the fulfillment of the taxpayer's promise to act" may potentially omit costly incentive programs. For example, the draft states in Appendix BS, "certain tax expenditure programs that exhibit the features of a tax abatement...are, nevertheless, excluded from the scope of this Statement because the government does not commit to abate taxes until *after* the taxpayer has already performed the activity for which the government is providing the tax abatement."

Major economic development tax abatement programs in some states are structured to reduce government risk of failed deals through "performance-based" awards. According to the GASB Exposure Draft, these programs, which can cost states billions of dollars annually and are at times criticized for inefficiencies and poor reporting, would not be required to be disclosed by the state. By excluding such programs from the new accounting standard, current transparency for these large economic development tax expenditures may vanish. Additionally, programs could be altered or designed in the future in such a way as to hide spending through a "performance-based" structure.

Likewise, under the definition of tax abatement proposed by the GASB standard, as-of-right economic development programs may be omitted. These programs may not require an agreement, but GASB should require them to be disclosed.

The proposed Statement on Tax Abatement Disclosures should include more explicit guidance on disclosure of the value of PILOT payments. While PILOTs are contractual agreements between a government or governmental agency and a property owner, reduce revenues for the purpose of economic development, and therefore should be captured in the proposed standard, PILOTs are not specifically mentioned in the proposed standard. PILOTs are clearly worthy of disclosure, and the Board should include language to ensure the inclusion of this program in its standard.

(3) GASB should require disclosure of future amounts remaining to be abated under existing agreements. [Appendix B26]

A number of jurisdictions require reporting of the assistance provided in the current fiscal year, the amount provided to date including the current fiscal year, the projected amount remaining, and the total value of the subsidy. This information is crucial in understanding the fiscal impact on current and future budgets. In many cases, subsidy agreements can last 20 years or longer.

Thank you for the opportunity to submit these comments.

Sincerely,



Molly A. Hunter
Director of EdJustice, Education Law
Center