



Getting Companies Off the Dole

A half-dozen ways concerned citizens are fighting back



BY MARJORIE KELLY

Look around the city you live in. Find the tallest buildings—probably office buildings or corporate headquarters—and ask yourself: How many of these towering properties pay no property taxes? In Ohio, a whopping \$2.1 billion in business property went untaxed in 1996, thanks to business assistance programs. Columbus companies enjoying corporate welfare include Spiegel, Wal-Mart, Consolidated Stores Corp, and White-Westinghouse Co.—all of which pay zero property taxes.

Property taxes support schools. So what's involved is a fairly direct transfer of public dollars. As one school treasurer put it, "Kids get hurt and stockholders get rich."

Alabama, to take another example, ranks near the bottom of the nation in student-achievement scores. But in 1993 it found nearly \$200 million in incentives for the needy Mercedes-Benz, which was enticed to build a plant in Vance, Alabama. That's \$200 million that could have built a half-dozen new high schools. Instead it went to Mercedes-Benz's bottom line.

Shouldn't that be illegal? In a democracy devoted to equal treatment before the laws, isn't it *unconstitutional*?

More folks are asking that question these days. Not just about property tax abatement, but about all forms of corporate welfare in which tax dollars enrich private companies. Some are asking the question in court—with tantalizing if not yet definitive results. North Carolina attorney Bill Maready, for example, in 1995 won a case at state trial court level, where the ruling was bracingly clear: Using taxpayer dollars to attract business is an unconstitutional use of public money for private purposes. Unfortunately, that case was overturned by the N.C. Supreme Court.

Since then, however, the composition of the state high court has changed, and it may be well-disposed to a new challenge, says John Hood, president of the right-of-center John Locke Foundation in Raleigh, N.C. He told *Business Ethics* he's working with citizen groups to possibly file a state lawsuit in coming months, challenging corporate incentives anew. Possible grounds could be the N.C. constitutional requirement of *just and equitable taxation*. "Charging different corporations different tax rates

violates that clause," he said.

Hood is also considering a federal lawsuit, using the *commerce clause*. "The argument there is that Congress is solely authorized to regulate interstate commerce, and states cannot erect trade barriers," he explained. Thus, giving a tax break solely to in-state firms is an illegal tariff.

Equal protection under the law is another constitutional angle, says attorney Dwight Brannon of Dayton, Ohio. He's suing state and local officials and the Hobart Corp., on behalf of former employees who lost their jobs when

the company moved 20 miles from Dayton to Piqua, Ohio—because of \$2 million in incentives. "People lost half their retirement. It didn't increase employment one job," Brannon said. "No one benefitted but the corporation, and it had the highest earnings in its history last year." The whole thing "smacks of fraud," he continued. He's now arguing the case in federal court. And if he has his way, the state law permitting such shenanigans will be stricken as unconstitutional. It's a case to watch.

Constitutional challenges like these go to the heart of the issue. If they succeed, they'll knock the ball out of the park. They may end the game entirely. Other approaches—like state subsidy reform laws—take a more incremental approach. They're less dramatic but, admittedly, may have a better chance of success.

With subsidy reform laws, the key is creating *enforceable contracts*, so companies receiving public largesse owe something back. A good example is Minnesota's 1995 Corporate Welfare Reform Act, the first of its kind in the nation, which requires corporations receiving subsidies to set and meet job-creation and wage-level targets within two years, or repay the assistance. Remarkably, it's even been enforced—once. When Fingerhut got \$13 million in state funds to expand its St. Cloud facility, it failed to create 400 jobs as promised. So in 1997 (after pressure by the union UNITE), it refunded \$1 million.

Subsidy accountability laws have been enacted by at least 10 states and four cities, according to John Howe and Mark Vallianatos, in the new report *Public Subsidies, Public Accountability* from the Grassroots Policy Project in Washington, D.C. (202/387-2935). In Minneapolis and St. Paul, the subsidy reform law is strengthened by *living-wage ordinances*, which impose \$8.50-an-hour wages on firms receiving city incentives. About a dozen other cities have living-wage laws.

Also vital is *involving the public in decisions*—as with Iowa's New Jobs and Income Program, where the community must approve subsidies by resolution or ordinance. And the economic development agency must consult with the community during negotiations.

At the federal level, Arthur Rolnick with the Federal Reserve Bank of Minneapolis has suggested a *100 percent federal excise tax* on state and local incentives. "It's a tax you'll never have to collect," he said. And the Progressive Policy Institute in Washington (202/547-0001) has proposed a *National Commission on Subsidy Reform*—modeled on the military base-closing commission—which would recommend to Congress a package of subsidies to be cut.

There are a lot of ideas out there—and the beginnings of some real (though small) change. Meanwhile, those corporate towers stand against the skyline, taunting us poor saps who pay our property taxes, while they get off scot-free. It ought to be against the law. ✂

SAYS WHO?

Amount Minnesota spent in 1994 on:

AFDC and work readiness programs: **\$143 million.**

Corporate welfare: **\$1 billion.**

Source: "Report on Corporate Welfare," Feb. 1995, Minnesota Alliance for Progressive Action, 1821 University Ave. Suite S-307, St. Paul, MN 55104. Ph 651/641-4050.