

Not Very Sporting: Outdoor Sporting Goods Retail Subsidy Scam

by Greg LeRoy

It is not often that companies get into public disputes over economic development subsidies. Even though Wal-Mart has benefited from more than \$1 billion in state and local favors, for example, you won't find chapters of the National Federation of Independent Business challenging them - even though NFIB's retail members are road-kill for the Bentonville behemoth.

That's why Gander Mountain's crusade is so remarkable. Gander, the third largest outdoor sporting goods retailer, has launched a national lobbying and public relations campaign to deny development subsidies sought by top seller Cabela's and number two Bass Pro for their huge "destination" stores. Such subsidies typically include tax increment financing (diverting property and/or sales taxes), property tax abatements, infrastructure aid such as highway improvements, land write downs and/or corporate income tax credits.

"If you give [a tax break] to a Wal-Mart, should you give it to Target? If you give it to Home Depot, then should you give it to Lowe's? And if you give it to Bass Pro, shouldn't you give it to Cabela's and Gander Mountain? How about we just don't give it to anybody?" asks Gander Mountain's developer Mike Ayers.

Subsidy As Business Model

The stakes are enormous; the market in outdoor sporting goods is still highly fragmented. Cabela's and Bass Pro's aggressive store-building plans are an apparent attempt to quickly capture market share, mostly at the expense of family-owned and regional competitors. Gander Mountain, a national chain with more than 100 stores that uses a medium-sized store format, is certainly motivated by competitive pressures as well as principles.

Nebraska-based Cabela's has gone on a store-building binge since it became publicly traded in 2004. The company says that it has eight stores in the works for 2007, and has already announced plans for three other openings - with more to come - in 2008.

Cabela's has not built a single store without subsidies. "There are a lot of Cabela's wannabes out there trying but failing to imitate what we do," says Joe Arterburn, corporate communications director for the company. "Building a true destination store is very expensive. We have not built a store without incentives and we believe every one of those incentives has been a wise investment for those communities. Community officials will confirm this."

Arterburn blanches at the word "subsidies," however. "We seek incentives, not subsidies," he says. "These are not gifts or grants. All the money is paid back through sales and property taxes generated by the store and surrounding development. These incentives are very important. Cabela's stores are not typical retail stores in any sense of the word and it requires a considerable investment to maintain that destination status and generate the levels of traffic desired by the communities."

Cabela's and Bass Pro defend their subsidy packages by arguing that their stores are tourist destinations. These big boxes of 100,000 to more than 200,000 square feet feature attractions such as stuffed big-game animals, aquariums and gun libraries and claim to attract millions of shoppers per year, in some cases ranking among a state's top attractions.

A substantial share of shoppers come from long distances - even out of state, the companies say - creating jobs at hotels and restaurants (including those in the stores), and generating new sales tax revenues. A Cabela's spokesman says the average customer spends three and a half hours in its stores.

"Cabela's stores are a huge draw," says Arterburn. "We do pull in customers from a huge radius; we are well established as top tourist destinations in the markets we are in. And, these incentives do not typically pay for bricks and mortar, for building the store. The incentives pay for infrastructure and since our stores are for the most part not stand-alone stores, but part of a larger development, the infrastructure, this investment the community makes, benefits the entire development which in turn benefits the community by generating sales and property tax revenue. Plus, the property we choose is often underdeveloped and underutilized and our stores are the catalyst for development that brings accompanying growth in employment, tax revenue and other benefits."

At least 20 communities have agreed to subsidize Cabela's stores or distribution centers to the tune of more than \$500 million, according to Gander Mountain's lobbyists and news media accounts. That's a much bigger average subsidy than Wal-Mart, whose \$1 billion in known subsidies are spread out over 244 facilities.

Cabela's wins these huge packages in part by playing big fish in small ponds. As it recently told shareholders: "Historically, we have been able to negotiate . free land, monetary grants and the recapture of incremental sales, property or other taxes." There's more: "we generally have located . in towns and municipalities that do not have a large base of commercial businesses." Subsidies are so integral to Cabela's business plan that it cautioned investors in its Initial Public Offering prospectus that if subsidies became less available, that could slow its growth.

Missouri-based Bass Pro is privately held. According to Gander Mountain's lobbyists and news reports, eight of its facilities have received or been promised at least \$209 million in subsidies. It is also in an aggressive growth mode, with 33 stores open and 23 more slated, often seeking subsidies.

For now, Cabela's and Bass Pro benefit from the fact that their stores are novelties. But Gander Mountain argues that as Cabela's and Bass Pro build so many new stores and saturate the market, it is inevitable that fewer shoppers will need to travel from afar, reducing tourism benefits. "We see a world out there where every major market in the United States will have a Cabela's store," that company's chief financial officer told the Omaha World-Herald.

When Cabela's had four or five very unique stores, says Gander Mountain CEO Mark Baker, "they were worth the drive." But with so many more stores coming on line, he says, he is "incredulous" that Cabela's "can keep convincing small communities that they are going to be the next Orlando theme park."

Arterburn retorts that "outdoor recreation is a huge market with millions of participants. Plus, every one of our stores is different, unique. The merchandise mix is different; the features, such as our extraordinary educational wildlife displays, are different. There is a reason to stop and visit each of our stores."

He adds, "with stores this unique, we are a long, long way from over-saturation."

Arterburn is dismissive of Gander Mountain's opposition to Cabela's and Bass Pro's subsidies. "We know Gander Mountain is on an anti-incentive campaign, but most community officials realize it is nothing more than sour grapes because Gander Mountain is fully aware its stores do not come close to measuring up to Cabela's stores. Plus, it is somewhat hypocritical because Gander Mountain - or developers working with Gander Mountain - has sought similar incentives."

The Museum Tax Scam

Central to the business plans of Cabela's and Bass Pro is their need to keep shoppers in the stores for a long time - to help some customers justify a long drive, no doubt - but mainly to maximize the size of their purchases. And a key to their success in keeping people in the stores for a long time is the creation of a

pseudo-"museum" experience. The trouble is, these ersatz "museums" sprinkled throughout the stores are often built at the expense of taxpayers - and sometimes they are even owned by local governments!

The idea of a public "museum" existing as scattered fragments inside a big-box store violates the definition of a museum held by groups such as the Association of American Museums. Its definition calls for "a legally organized nonprofit organization or government entity" with "a formally stated and approved mission," "paid professional staff," and a "program of documentation, care and use of collections and/or objects." It also contradicts the Association's ethical guidelines for when a museum seeks support from business. Those guidelines call for "content control and integrity," "avoidance of conflict of interest," and a written, publicly accessible policy on business support.

The visual centerpiece of a Cabela's store is typically "Conservation Mountain," a diorama with hundreds of stuffed animals. Both Cabela's and Bass Pro stores tend to provoke fawning newspaper articles in which the adjective "museum-quality" appears again and again. For example, a San Antonio Express-News account of the Cabela's in Buda, Texas (which received \$61 million in economic development subsidies) says it is "on par with a natural history museum," with 700 stuffed animals, a Conservation Mountain that spans four regions of the world, a "60,000-gallon aquarium featuring Texas fish and sports species," a "Big Game Museum," and a "Gun Library, which has no books" (but lots of rare guns).

The Express-News column reported "even a red-flanneled-clad old-timer, an audio-animatronic figure outside a canvas tent, who talks about hunting and the outdoors at the push of a button." Perhaps the company should have employed an actor instead: Cabela's was recently ordered to pay back \$28,000 to the Texas Enterprise Fund (and denied \$200,000 in future subsidies) for failing to create its promised number of jobs at the store.

Cabela's and Bass Pro use a variety of legal gambits to structure these deals. In some cases, economic development subsidies are dedicated specifically to building the "museums." For example, a tax increment financing package in Hooksett, New Hampshire included \$4 million (out of \$18 million total) for four "museum wings" at the corners of a new Cabela's store. And Glendale Arizona's \$16.7 million package for Bass Pro included \$10 million for the "museum," aquarium and Conservation Mountain.

Hazelwood, Missouri jacked up its tax on hotel guests - so that combined state and local taxes now exceed 18 percent - to help generate \$5.82 million for a city-owned "museum" within a Cabela's. One irate taxpayer wrote the St. Louis Post-Dispatch: "It is ironic that Hazelwood is paying Cabela's \$5 million to build a nature museum in a mall that was built on 500 acres of green space and about 50 acres of wetland. Before long, there won't be any place left to use the stuff Cabela's sells. Maybe we can take our new tent and cooler and go camping in the nature `museum.'"

In some cases, the company uses a state's condominium law (enabling two entities to own pieces of the same property) to deed the "museum" part of the store over to the local government. Since it is publicly owned, the "museum" part of the property is normally exempt from property taxes. This is reportedly the plan in the Chicago suburb of Hoffman Estates, where local officials approved a \$23.5 million package for a Cabela's, 15 percent of which is to be declared a tax-exempt "museum."

In two recent cases, state legislators voted to amend state laws specially for the chains. The South Carolina state legislature overrode a vehement veto from Governor Mark Sanford, amending its tourism promotion act by extending subsidies to as many as four "extraordinary retail establishments" if they include "an aquarium or natural history exhibit or museum." Governor Sanford was so incensed by the proposal, enacted for Cabela's, that he mailed letters denouncing it to three dozen locally owned outdoor sporting goods retailers in the state, and he wrote legislators that it was a troubling precedent because the state had never before subsidized retail investment.

And in Ohio, the state legislature enacted a special "impact" retail subsidy for a proposed Bass Pro store in Rossford, though not by name. Instead, the law grants a lavish sales-tax rebate to a retailer that, among other things, dedicates at least 10 percent of its facility to "educational and exhibit activities."

On top of the sales-tax rebate, Ohio's Department of Natural Resources (DNR) committed \$1 million for the construction of an "outdoor education center" at the store. The money is to come from hunting and fishing license fees and from federal excise tax rebates.

A DNR spokeswoman notes that Ohio state law forbids the funds from subsidizing any retail operations, but "outdoor education" is another thing.

"They [Bass Pro] teach everything from nature interpretation to angling skills and hunting safety," she says. Bass Pro says it will invite school groups and scout troops for field trips.

Nexus Nullification

Gander Mountain is also outraged by Cabela's practice of obtaining special sales-tax rulings that give Cabela's another tax-break advantage over competitors. The issue is "nexus," or whether Cabela's must collect sales taxes on its catalogue and Internet sales to customers in states where it also has a store.

Normally, when a company has a physical presence such as a store or a warehouse in state, that creates "nexus," meaning the state has the right to tax the company's activities. Cabela's was historically a catalogue and Internet sales operation, so few of its sales were subject to state sales taxes. But as it launched its store-building strategy - establishing new physical presences in many states with sales taxes - Cabela's would normally have become responsible for charging sales taxes on catalogue and Internet sales there.

Apparently determined to avoid nexus and keep its no-sales-tax advantage over smaller competitors, Cabela's has reportedly obtained special rulings from about a dozen states. The rulings allow Cabela's to claim that the catalogue and Internet sales operations are a separate entity from the stores and therefore nexus does not apply.

On this issue, Cabela's stands out among "bricks and clicks" retailers that operate both stores and websites. Most of them cut a deal with 37 states in 2003 and agreed to start collecting sales taxes on their online sales. In exchange, the states forgave back taxes, a giveaway worth unknown tens of billions of dollars. According to Big-Box Swindle author Stacy Mitchell, Cabela's and Sports Authority are prominent stragglers.

Cabela's may have met its match in one state, however: L.L. Bean and other interests in Maine - including the Maine Chamber of Commerce, the Maine Municipal Association and even the state chapter of the National Federation of Independent Business - are opposing a sales-tax exemption if Cabela's opens a store proposed in Scarborough.

"It's not about competition; bring the competition on," says an L.L. Bean spokesman. "It's about playing by the same rules."

Retail Shell Game

Tax-dodging by U.S. retailers is hardly unusual: Wal-Mart has benefited from more than \$1 billion in subsidies; Target, Nordstrom and other chains and malls play the game. But the aggressive campaigns by Cabela's and Bass Pro are upping the ante, driving per-store subsidy packages to new heights, giving the two chains enormous taxpayer-financed advantages over smaller competitors.

A major premise of these subsidy demands is that biggest is better, that "impact" or "extraordinary" retail is somehow more worthy of taxpayer assistance than its competitors - even to the extent of implanting publicly owned "museums" within a commercial space. By that logic, every big company seeking to dominate a market deserves public favor.

"There's been this perverse inversion of government," says author Mitchell. "We no longer police predatory behavior or break up concentrations of market power. Instead, we foster monopolies by subsidizing the

world's most powerful corporations. Small independent businesses rarely see a dime of public funding. They're told they have to adapt to the rigors of the so-called free market, but really it's a rigged game."

Ultimately, it's all a wasteful shell game; retail subsidies are not about growing the economy. All a big box can really do is steal sales and jobs from other stores; consumers do not have more money to pay for fly rods just because there are more places to buy them. And most of the "upstream" jobs manufacturing retail goods are overseas (where Wal-Mart and other chains have often driven them), and retail's "downstream" ripple effects are paltry because store jobs are mostly part-time and low-wage.

That states would amend their laws to subsidize retail suggests that elected officials are desperate for jobs - any jobs - they can claim credit for. But subsidizing high-profile big-boxes that undermine jobs in competing stores can hardly be called economic development. Has anti-trust law become such a dead letter that it is now the mission of economic development to help grow monopolies and oligopolies?

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