

By: Davis of Dallas

H.B. No. 155

A BILL TO BE ENTITLED

AN ACT

relating to the application of the sunset review process to certain exemptions from property taxes and state taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 325, Government Code, is amended by adding Section 325.023 to read as follows:

Sec. 325.023. EVALUATION OF EXEMPTIONS FROM PROPERTY AND STATE TAXES. (a) In this section, "exemption" includes:

(1) an exemption that is provided by the manner in which a term is defined in Subchapter A, Chapter 151, Tax Code; and

(2) an exemption provided by Chapter 162, Tax Code, from the taxes imposed by that chapter.

(b) The commission shall periodically evaluate each exemption provided by Chapters 11, 151, 152, 162, and 171, Tax Code, from the taxes imposed by those chapters.

(c) The commission shall conduct the evaluation required by Subsection (b) according to a schedule that the commission adopts. The schedule must provide for the commission to evaluate each tax exemption at an interval not to exceed six years. The commission shall provide the schedule to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the senate finance committee and the house ways and means committee.

(d) The commission's evaluation of each tax exemption must:

1           (1) include an evaluation of the exemption's effect  
2 on:

3                   (A) revenue received from taxes imposed by the  
4 chapter providing the exemption;

5                   (B) sales of property, goods, and services made  
6 in this state, where applicable; and

7                   (C) economic investment and growth in this state;

8           (2) take into account any other factors the commission  
9 considers relevant in evaluating the exemption;

10           (3) consider whether retaining the exemption is in the  
11 best interest of the public; and

12           (4) make recommendations for retaining or repealing  
13 the exemption, or for amending a provision related to the  
14 exemption.

15           (e) At each regular legislative session, the commission  
16 shall present to the legislature and the governor a report on the  
17 evaluation and recommendations it makes under Subsection (d). The  
18 report must include drafts of any legislation needed to carry out  
19 the commission's recommendations under that subsection.

20           (f) The evaluation described by this section does not apply  
21 to a tax exemption that is:

22                   (1) explicitly provided by the constitution of this  
23 state; or

24                   (2) for an item or service that this state is unable to  
25 tax under the United States Constitution or federal law.

26           SECTION 2. Subchapter C, Chapter 11, Tax Code, is amended by  
27 adding Section 11.49 to read as follows:

1           Sec. 11.49. SUNSET PROVISION FOR PROPERTY TAX  
2 EXEMPTIONS. (a) The exemptions provided by this chapter from the  
3 taxes imposed by this chapter are subject to periodic evaluation by  
4 the Sunset Advisory Commission under Section 325.023, Government  
5 Code, according to a schedule that the commission adopts under that  
6 section.

7           (b) A tax exemption provided by this chapter that is the  
8 subject of a Sunset Advisory Commission evaluation under Section  
9 325.023, Government Code, and a section or part of a section that  
10 provides the exemption are repealed on December 31 of the year in  
11 which the commission presents its evaluation to the legislature  
12 unless the legislature retains the exemption.

13           (c) This section does not prohibit the legislature from  
14 repealing an exemption from the taxes imposed by this chapter at a  
15 date earlier than the date provided by this section.

16           (d) The evaluation described by Subsection (a) and the  
17 repeal described by Subsection (b) do not apply to a tax exemption  
18 that is explicitly provided by the constitution of this state.

19           SECTION 3. Chapter 101, Tax Code, is amended by adding  
20 Section 101.010 to read as follows:

21           Sec. 101.010. SUNSET PROVISION FOR CERTAIN EXEMPTIONS FROM  
22 STATE TAXES. (a) In this section, "exemption" includes:

23                   (1) an exemption that is provided by the manner in  
24 which a term is defined in Subchapter A, Chapter 151; and

25                   (2) an exemption under Chapter 162 from the taxes  
26 imposed by that chapter.

27           (b) The exemptions provided by Chapters 151, 152, 162, and

1 171 from the taxes imposed by those chapters are subject to periodic  
2 evaluation by the Sunset Advisory Commission under Section 325.023,  
3 Government Code, according to a schedule that the commission adopts  
4 under that section.

5 (c) A tax exemption that is the subject of a Sunset Advisory  
6 Commission evaluation under Section 325.023, Government Code, and a  
7 section or part of a section that provides the exemption are  
8 repealed on December 31 of the year in which the commission presents  
9 its evaluation to the legislature unless the legislature retains  
10 the exemption.

11 (d) This section does not prohibit the legislature from  
12 repealing an exemption from the taxes imposed by Chapters 151, 152,  
13 162, and 171 at a date earlier than the date provided by this  
14 section.

15 (e) The evaluation described by Subsection (b) and the  
16 repeal described by Subsection (c) do not apply to a tax exemption  
17 for an item or service that this state is unable to tax under the  
18 United States Constitution or federal law.

19 SECTION 4. The Sunset Advisory Commission shall adopt a  
20 schedule for evaluating exemptions from property taxes and state  
21 taxes as provided by Section 325.023, Government Code, as added by  
22 this Act, on or before January 1, 2006.

23 SECTION 5. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2005.