

By: Ellis

S.B. No. 42

A BILL TO BE ENTITLED

AN ACT

relating to a periodic review and expiration dates of state and local tax preferences.

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

SECTION 1. Subtitle B, Title 3, Government Code, is amended by adding Chapter 320A to read as follows:

CHAPTER 320A. REVIEW OF STATE AND LOCAL TAX PREFERENCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 320A.001. DEFINITION. In this chapter, "tax preference" means a credit, discount, exclusion, exemption, refund, special valuation, special accounting treatment, special rate, or special method of reporting authorized by state law that relates to a state or local tax imposed in this state.

[Sections 320A.002-320A.050 reserved for expansion]

SUBCHAPTER B. SCHEDULE FOR PERIODIC REVIEW

OF STATE AND LOCAL TAX PREFERENCES

Sec. 320A.051. DEVELOPMENT AND BIENNIAL MODIFICATION OF STATE AND LOCAL TAX PREFERENCE REVIEW SCHEDULE. (a) The comptroller shall:

(1) identify each state tax preference and each type of local tax preference;

(2) develop a state and local tax preference review schedule under which each identified tax preference is reviewed once during each six-year period; and

1 (3) specifically identify on the schedule each of the
2 tax preferences the Legislative Budget Board must review for
3 purposes of the next report due under Section 320A.151.

4 (b) Except as provided in Subsection (c), in developing the
5 schedule, the comptroller shall give priority to scheduling for
6 review the tax preferences that result in the greatest reduction in
7 revenue derived from the taxes to which the tax preferences relate.

8 (c) In developing the schedule, the comptroller may:

9 (1) schedule for review at the same time all tax
10 preferences authorized in the same chapter of the Tax Code; and

11 (2) schedule the initial review of a tax preference
12 that has an expiration date for any date the comptroller determines
13 is appropriate.

14 (d) The comptroller shall revise the schedule biennially
15 only to:

16 (1) add to the schedule a tax preference that was
17 enacted or authorized after the comptroller developed the most
18 recent schedule;

19 (2) delete from the schedule a tax preference that was
20 repealed or that expired after the comptroller developed the most
21 recent schedule;

22 (3) update the review dates of the tax preferences for
23 which reviews were conducted after the comptroller developed the
24 most recent schedule; and

25 (4) update the tax preferences identified under
26 Subsection (a)(3).

27 Sec. 320A.052. PUBLIC COMMENT. The comptroller shall

1 provide a process by which the public may comment on the state and
2 local tax preference review schedule under Section 320A.051. The
3 comptroller shall consider those comments in developing or revising
4 the schedule.

5 Sec. 320A.053. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET
6 BOARD. Not later than December 1 of each odd-numbered year, the
7 comptroller shall provide the state and local tax preference review
8 schedule to the Legislative Budget Board.

9 [Sections 320A.054-320A.100 reserved for expansion]

10 SUBCHAPTER C. CONDUCT OF REVIEW OF STATE
11 AND LOCAL TAX PREFERENCES

12 Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. The
13 Legislative Budget Board shall periodically review each state tax
14 preference and each type of local tax preference according to the
15 state and local tax preference review schedule provided by the
16 comptroller under Section 320A.053. In reviewing a tax preference,
17 the board shall:

18 (1) determine the intended purpose of the tax
19 preference; and

20 (2) evaluate:

21 (A) whether the tax preference accomplishes its
22 intended purpose;

23 (B) whether the tax preference is inefficient,
24 ineffective, or unnecessary, or the intended purpose of the tax
25 preference is a low priority for this state; and

26 (C) the effect of the tax preference on economic
27 development, the number of high-wage jobs, funding for public

1 services, the distribution of the tax burden by income class and
2 industry or business class, and total income by income class in this
3 state.

4 Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. The
5 Legislative Budget Board may request assistance from the
6 comptroller or any other state agency, department, or office if the
7 board needs assistance to perform the review required by Section
8 320A.101. The comptroller or other agency, department, or office
9 shall provide the requested assistance.

10 [Sections 320A.103-320A.150 reserved for expansion]

11 SUBCHAPTER D. RECOMMENDATIONS REGARDING REVIEWED TAX PREFERENCES

12 Sec. 320A.151. PRELIMINARY REPORT. Not later than
13 September 1 of each even-numbered year, the Legislative Budget
14 Board shall provide to the presiding officers of the senate finance
15 committee, or its successor, and the house ways and means
16 committee, or its successor, a preliminary report on the reviews of
17 tax preferences identified under Section 320A.051(a)(3). The
18 report must include drafts of any proposed legislation needed to
19 implement the board's recommendations.

20 Sec. 320A.152. FINAL REPORT. (a) The senate finance
21 committee, or its successor, and the house ways and means
22 committee, or its successor, shall review and may modify the
23 preliminary report and proposed legislation provided to the
24 committees under Section 320A.151.

25 (b) Not later than December 1 of each even-numbered year,
26 the senate finance committee, or its successor, and the house ways
27 and means committee, or its successor, shall provide to the

1 governor, the lieutenant governor, and the speaker of the house of
2 representatives a final report on the reviews of tax preferences
3 identified under Section 320A.051(a)(3). The final report must
4 include:

5 (1) as to each tax preference examined, a
6 recommendation to:

7 (A) continue the tax preference;

8 (B) amend a provision relating to the tax
9 preference; or

10 (C) repeal the tax preference;

11 (2) a complete explanation of each recommendation;

12 (3) proposed legislation necessary to implement the
13 findings of the final report; and

14 (4) a description of any deviations from the
15 preliminary report provided under Section 320A.151 that are made by
16 the final report, and a description of the reasons for each
17 deviation.

18 Sec. 320A.153. PUBLIC HEARING ON FINAL REPORT. The senate
19 finance committee, or its successor, and the house ways and means
20 committee, or its successor, shall hold a joint public hearing on
21 the final report and proposed legislation provided under Section
22 320A.152.

23 [Sections 320A.154-320A.200 reserved for expansion]

24 SUBCHAPTER E. EXPIRATION OF TAX PREFERENCES

25 Sec. 320A.201. EXPIRATION; REQUIRED STATEMENT. (a) Each
26 tax preference enacted by the legislature that becomes law on or
27 after September 1, 2012:

1 (1) expires six years after the date the tax
2 preference takes effect, unless the legislature provides for an
3 earlier or later expiration date; and

4 (2) must include the following statement: "This tax
5 preference expires six years after its effective date unless the
6 legislature provides for an earlier or later expiration date."

7 (b) A tax preference to which Subsection (a) applies that
8 does not include the statement required by Subsection (a)(2)
9 expires as provided by Subsection (a)(1).

10 SECTION 2. Notwithstanding Section 320A.053, Government
11 Code, as added by this Act, the comptroller of public accounts shall
12 submit the initial state and local tax preference review schedule
13 required by that section not later than January 15, 2012.

14 SECTION 3. The Legislative Budget Board shall submit the
15 initial preliminary report required by Section 320A.151,
16 Government Code, as added by this Act, not later than September 1,
17 2012.

18 SECTION 4. The senate finance committee and the house ways
19 and means committee shall submit the initial final report required
20 by Section 320A.152, Government Code, as added by this Act, not
21 later than December 1, 2012.

22 SECTION 5. This Act takes effect January 1, 2012, but only
23 if the constitutional amendment proposed by the 82nd Legislature,
24 1st Called Session, 2011, requiring the legislature to provide for
25 a periodic review of state and local tax preferences and providing
26 for the expiration of certain tax preferences six years after their
27 effective dates or at another time prescribed by the legislature is

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1 approved by the voters. If that amendment is not approved by the
2 voters, this Act has no effect.