

BILL ANALYSIS

Senate Research Center
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S.B. 1051
By: Ellis
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Tax Code contains several tax breaks, special treatments, and refunds that were inserted into the code in the distant past. The rationale for these provisions, however, has disappeared. To this end, S.B. 1051 reviews the Tax Code for wasteful provisions. State agencies are subjected to a "sunset review" every 12 years to determine whether the agency's functions need to be continued. The Tax Code would benefit from a similar periodic review of all its exemptions, discounts, exclusions, and special treatments.

S.B. 1051 would create a 21-member Commission on Periodic Tax Preference Review (commission) to identify state and local tax preferences, and to set a schedule for the Legislative Budget Board (LBB) to perform reviews of those state and local tax preferences over a 12-year period. The LBB would be required to review and report biennially on the impact of each tax, make recommendations to repeal, retain, or amend a tax, as well as any related exemptions, discounts, or credits, provide drafts of any proposed legislation needed to implement the recommendations, and submit a preliminary report to the commission. The commission would be required to review the report biennially and submit comments to LBB to incorporate into the final report to be submitted to the governor and the presiding officers of the senate finance committee and the house way and means committee not later than December 1 of each even-numbered year.

As proposed, S.B. 1051 amends current law relating to a periodic review of state and local tax preferences.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 3, Government Code, by adding Chapter 320A, as follows:

CHAPTER 320A. REVIEW OF STATE AND LOCAL TAX PREFERENCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 320A.001. DEFINITIONS. Defines "commission" and "tax preference" in this section.

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

SUBCHAPTER B. SCHEDULE FOR PERIODIC REVIEW OF STATE AND LOCAL TAX PREFERENCES

Sec. 320A.051. SELECT COMMISSION ON PERIODIC TAX PREFERENCE REVIEW. Provides that the select commission on periodic tax preference review (commission) is composed of:

(1) three members of the house of representatives, appointed by the speaker of the house of representatives;

(2) three members of the senate, appointed by the lieutenant governor;

(3) eight public members representing the geographic and cultural diversity of this state, composed of the following:

(A) four members appointed by the lieutenant governor, of which one is a representative of the business community in this state; and

(B) four members appointed by the speaker of the house of representatives, of which one is a representative of the business community in this state and one is a representative of an organization that advocates for public policies that benefit low- and moderate-income families in this state; and

(4) the comptroller of public accounts (comptroller).

Sec. 320A.052. **TERMS.** Provides that the members of the commission serve two-year terms that expire December 31 of each even-numbered year.

Sec. 320A.053. **VACANCY.** Requires the individual who originally appointed the vacating member, if a vacancy occurs, to appoint an individual to fill the vacancy for the remainder of the unexpired term.

Sec. 320A.054. **OFFICERS.** (a) Requires the speaker of the house of representatives to select one member of the commission appointed under Section 320A.051(1) to serve as chair of the commission.

(b) Requires the lieutenant governor to select one member of the commission appointed under Section 320A.051(2) to serve as vice chair of the commission.

Sec. 320A.055. **MEETINGS.** Requires the commission to meet at the call of the chair.

Sec. 320A.056. **STAFF.** Requires the Legislative Budget Board (LBB), the Texas Legislative Council, the office of the governor, the comptroller, the senate, and the house of representatives, on the commission's request, to provide staff as necessary to assist the commission in performing the commission's duties.

Sec. 320A.057. **COOPERATION BY OTHER STATE ENTITIES.** Authorizes the commission to request assistance from the comptroller or any other state agency, department, or office if the commission needs assistance to perform the commission's duties. Requires the comptroller or other agency, department, or office to provide the requested assistance.

Sec. 320A.058. **EXPENSES.** Requires that the operating expenses of the commission be paid from the contingent expense funds of the senate and the house of representatives, as agreed by those entities. Entitles the commission members to reimbursement from those funds for expenses incurred by the members in implementing this chapter.

Sec. 320A.059. **DEVELOPMENT AND BIENNIAL MODIFICATION OF STATE AND LOCAL TAX PREFERENCE REVIEW SCHEDULE.** (a) Requires the commission to:

(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 12-year period; and

(3) specifically identify on the schedule each of the tax preferences the LBB must review for purposes of the next report due under Section 320A.151; any tax preference described by Paragraph (A) that reduces by less than one-fourth of one percent the total revenue derived from the tax to which the tax preference applies and that the commission recommends for an abbreviated review by LBB; and the components of the review specified by Section 320A.101 that the commission recommends are unnecessary with respect to a tax preference recommended for an abbreviated review.

(b) Requires the commission, except as provided in Subsection (c), in developing the schedule, to schedule the tax preferences for review in the order in which the tax preferences were enacted or authorized.

(c) Authorizes the commission, in developing the schedule, to:

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

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

(d) Requires the commission to revise the schedule biennially only to add to the schedule a tax preference that was enacted or authorized after the commission developed the most recent schedule; delete from the schedule a tax preference that was repealed after the commission developed the most recent schedule; update the review date of the tax preferences for which reviews were conducted after the commission developed the most recent schedule; and update the tax preferences identified under Subsection (a)(3).

Sec. 320A.060. PUBLIC COMMENT. Requires the commission to provide a process by which the public may comment on the state and local tax preference review schedule under Section 320A.059. Requires the commission to consider those comments in developing or revising the schedule.

Sec. 320A.061. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET BOARD. Requires the commission, not later than December 1 of each odd-numbered year, to provide the state and local tax preference review schedule to LBB.

[Reserves Sections 320A.062-320A.100 for expansion.]

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

Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. Requires LBB to periodically review each state tax preference and each type of local tax preference according to the state and local tax preference review schedule provided by the commission under Section 320A.061. Requires LBB, in reviewing a tax preference, to determine the intended purpose of the tax preference, and evaluate whether the tax preference accomplishes its intended purpose; whether the tax preference is inefficient, ineffective, or unnecessary, or the intended purpose of the tax preference is a low priority for this state; and the effect of the tax preference on economic development, the number of high wage jobs, funding for public services, the distribution of the tax burden by income class and industry or business class, and total income by income class in this state.

Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. Authorizes LBB to request assistance from the comptroller or any other state agency, department, or office if LBB needs assistance to perform the review required by Section 320A.101. Requires the comptroller or other agency, department, or office to provide the requested assistance.

[Reserves Sections 320A.103-320A.150 for expansion.]

SUBCHAPTER D. RECOMMENDATIONS REGARDING REVIEWED TAX PREFERENCES

Sec. 320A.151. PRELIMINARY REPORT. Requires LBB, not later than September 1 of each even-numbered year, to provide to the commission a preliminary report on the reviews of tax preferences identified under Section 320A.059(a)(3)(A). Requires that the report include drafts of any proposed legislation needed to implement LBB's recommendations.

Sec. 320A.152. FINAL REPORT. (a) Requires the commission to review and authorizes the commission to modify the preliminary report and proposed legislation provided to the commission under Section 320A.151.

(b) Requires the commission, not later than December 1 of each even-numbered year, to provide to the governor and the presiding officers of the senate finance committee and the house way and means committee a final report on the reviews of tax preferences identified under Section 320A.059(a)(3)(A). Requires that the final report include:

- (1) as to each tax preference examined, whether the commission recommends continuing the tax preference; amending a provision relating to the tax preference; or repealing the tax preference;
- (2) a complete explanation of each of the commission's recommendations;
- (3) proposed legislation necessary to implement the findings of the final report; and
- (4) a description of any deviations from the preliminary report provided under Section 320A.151 that are made by the final report, and a description of the reasons for each deviation.

Sec. 320A.153. PUBLIC HEARING ON FINAL REPORT. Requires the senate finance committee and the house ways and means committee to hold a joint public hearing on the final report and proposed legislation provided under Section 320A.152.

SECTION 2. Requires the lieutenant governor and the speaker of the house of representatives to appoint the initial members of the commission not later than October 1, 2011. Provides that notwithstanding Section 320A.052, Government Code, as added by this Act, the terms of the initial members of the commission expire December 31, 2012.

SECTION 3. Requires the commission to:

- (1) notwithstanding Section 320A.061, Government Code, as added by this Act, submit the initial state and local tax preference review schedule required under that section not later than January 15, 2012; and
- (2) submit the initial final report required by Section 320A.152, Government Code, as added by this Act, not later than December 1, 2012.

SECTION 4. Requires LBB to submit the initial preliminary report required by Section 320A.151, Government Code, as added by this Act, not later than September 1, 2012.

SECTION 5. Effective date: upon passage or September 1, 2011.