

By: Ellis

S.B. No. 1051

A BILL TO BE ENTITLED

AN ACT

relating to a periodic review 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. DEFINITIONS. In this chapter:

(1) "Commission" means the select commission on periodic tax preference review.

(2) "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. SELECT COMMISSION ON PERIODIC TAX PREFERENCE REVIEW. The select commission on periodic tax preference review 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

1 lieutenant governor;

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

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

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

12 (4) the comptroller.

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

15 Sec. 320A.053. VACANCY. If a vacancy occurs, the  
16 individual who originally appointed the vacating member shall  
17 appoint an individual to fill the vacancy for the remainder of the  
18 unexpired term.

19 Sec. 320A.054. OFFICERS. (a) The speaker of the house of  
20 representatives shall select one member of the commission appointed  
21 under Section 320A.051(1) to serve as chair of the commission.

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

25 Sec. 320A.055. MEETINGS. The commission shall meet at the  
26 call of the chair.

27 Sec. 320A.056. STAFF. On the commission's request, the

1 Legislative Budget Board, the Texas Legislative Council, the office  
2 of the governor, the comptroller, the senate, and the house of  
3 representatives shall provide staff as necessary to assist the  
4 commission in performing the commission's duties.

5 Sec. 320A.057. COOPERATION BY OTHER STATE ENTITIES. The  
6 commission may request assistance from the comptroller or any other  
7 state agency, department, or office if the commission needs  
8 assistance to perform the commission's duties. The comptroller or  
9 other agency, department, or office shall provide the requested  
10 assistance.

11 Sec. 320A.058. EXPENSES. The operating expenses of the  
12 commission shall be paid from the contingent expense funds of the  
13 senate and the house of representatives, as agreed by those  
14 entities. The commission members are entitled to reimbursement  
15 from those funds for expenses incurred by the members in  
16 implementing this chapter.

17 Sec. 320A.059. DEVELOPMENT AND BIENNIAL MODIFICATION OF  
18 STATE AND LOCAL TAX PREFERENCE REVIEW SCHEDULE. (a) The commission  
19 shall:

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

22 (2) develop a state and local tax preference review  
23 schedule under which each identified tax preference is reviewed  
24 once during each 12-year period; and

25 (3) specifically identify on the schedule:

26 (A) each of the tax preferences the Legislative  
27 Budget Board must review for purposes of the next report due under

1 Section 320A.151;

2 (B) any tax preference described by Paragraph (A)  
3 that reduces by less than one-fourth of one percent the total  
4 revenue derived from the tax to which the tax preference applies and  
5 that the commission recommends for an abbreviated review by the  
6 Legislative Budget Board; and

7 (C) the components of the review specified by  
8 Section 320A.101 that the commission recommends are unnecessary  
9 with respect to a tax preference recommended for an abbreviated  
10 review.

11 (b) Except as provided in Subsection (c), in developing the  
12 schedule, the commission shall schedule the tax preferences for  
13 review in the order in which the tax preferences were enacted or  
14 authorized.

15 (c) In developing the schedule, the commission may:

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

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

21 (d) The commission shall revise the schedule biennially  
22 only to:

23 (1) add to the schedule a tax preference that was  
24 enacted or authorized after the commission developed the most  
25 recent schedule;

26 (2) delete from the schedule a tax preference that was  
27 repealed after the commission developed the most recent schedule;

1           (3) update the review dates of the tax preferences for  
2 which reviews were conducted after the commission developed the  
3 most recent schedule; and

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

6           Sec. 320A.060. PUBLIC COMMENT. The commission shall  
7 provide a process by which the public may comment on the state and  
8 local tax preference review schedule under Section 320A.059. The  
9 commission shall consider those comments in developing or revising  
10 the schedule.

11           Sec. 320A.061. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET  
12 BOARD. Not later than December 1 of each odd-numbered year, the  
13 commission shall provide the state and local tax preference review  
14 schedule to the Legislative Budget Board.

15           [Sections 320A.062-320A.100 reserved for expansion]

16                   SUBCHAPTER C. CONDUCT OF REVIEW OF STATE

17                           AND LOCAL TAX PREFERENCES

18           Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. The  
19 Legislative Budget Board shall periodically review each state tax  
20 preference and each type of local tax preference according to the  
21 state and local tax preference review schedule provided by the  
22 commission under Section 320A.061. In reviewing a tax preference,  
23 the board shall:

24                   (1) determine the intended purpose of the tax  
25 preference; and

26                   (2) evaluate:

27                           (A) whether the tax preference accomplishes its

1 intended purpose;

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

5 (C) the effect of the tax preference on economic  
6 development, the number of high wage jobs, funding for public  
7 services, the distribution of the tax burden by income class and  
8 industry or business class, and total income by income class in this  
9 state.

10 Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. The  
11 Legislative Budget Board may request assistance from the  
12 comptroller or any other state agency, department, or office if the  
13 board needs assistance to perform the review required by Section  
14 320A.101. The comptroller or other agency, department, or office  
15 shall provide the requested assistance.

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

17 SUBCHAPTER D. RECOMMENDATIONS REGARDING REVIEWED TAX PREFERENCES

18 Sec. 320A.151. PRELIMINARY REPORT. Not later than  
19 September 1 of each even-numbered year, the Legislative Budget  
20 Board shall provide to the commission a preliminary report on the  
21 reviews of tax preferences identified under Section  
22 320A.059(a)(3)(A). The report must include drafts of any proposed  
23 legislation needed to implement the board's recommendations.

24 Sec. 320A.152. FINAL REPORT. (a) The commission shall  
25 review and may modify the preliminary report and proposed  
26 legislation provided to the commission under Section 320A.151.

27 (b) Not later than December 1 of each even-numbered year,

1 the commission shall provide to the governor and the presiding  
2 officers of the senate finance committee and the house ways and  
3 means committee a final report on the reviews of tax preferences  
4 identified under Section 320A.059(a)(3)(A). The final report must  
5 include:

6 (1) as to each tax preference examined, whether the  
7 commission recommends:

8 (A) continuing the tax preference;

9 (B) amending a provision relating to the tax  
10 preference; or

11 (C) repealing the tax preference;

12 (2) a complete explanation of each of the commission's  
13 recommendations;

14 (3) proposed legislation necessary to implement the  
15 findings of the final report; and

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

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

24 SECTION 2. The lieutenant governor and the speaker of the  
25 house of representatives shall appoint the initial members of the  
26 select commission on periodic tax preference review not later than  
27 October 1, 2011. Notwithstanding Section 320A.052, Government

1 Code, as added by this Act, the terms of the initial members of the  
2 commission expire December 31, 2012.

3 SECTION 3. The select commission on periodic tax preference  
4 review shall:

5 (1) notwithstanding Section 320A.061, Government  
6 Code, as added by this Act, submit the initial state and local tax  
7 preference review schedule required under that section not later  
8 than January 15, 2012; and

9 (2) submit the initial final report required by  
10 Section 320A.152, Government Code, as added by this Act, not later  
11 than December 1, 2012.

12 SECTION 4. The Legislative Budget Board shall submit the  
13 initial preliminary report required by Section 320A.151,  
14 Government Code, as added by this Act, not later than September 1,  
15 2012.

16 SECTION 5. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2011.