

By: Ellis

S.B. No. 868

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.

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

(3) specifically identify on the schedule each of the

1 tax preferences the Legislative Budget Board must review for
2 purposes of the next report due under Section 320A.151.

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

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

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

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

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

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

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19 repealed or that expired after the comptroller developed the most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

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

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

26 Sec. 320A.052. PUBLIC COMMENT. The comptroller shall
27 provide a process by which the public may comment on the state and

1 local tax preference review schedule under Section 320A.051. The
2 comptroller shall consider those comments in developing or revising
3 the schedule.

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

8 SUBCHAPTER C. REVIEW OF STATE AND LOCAL TAX PREFERENCES

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

15 (1) summarize the legislative history of the tax
16 preference;

17 (2) estimate the amount of lost tax revenue
18 attributable to the tax preference during the preceding six-year
19 period, including the percent reduction in the tax revenue of the
20 related state or local tax, using amounts reported by the
21 comptroller under Section 403.014, if available;

22 (3) determine the effect of the tax preference on the
23 distribution of the tax burden by income class and industry or
24 business class during the preceding six-year period, using amounts
25 reported and data analyzed by the comptroller under Sections
26 403.014 and 403.0141, if available; and

27 (4) evaluate, for a tax preference that reduces by

1 more than one percent the total revenue of the related state or
2 local tax, the fiscal impact of the tax preference during the
3 preceding and following six-year periods, based on a cost-benefit
4 analysis of the general effects of the tax preference on the overall
5 state economy, including the effects on:

- 6 (A) job creation by industry sector;
7 (B) average wage by industry sector;
8 (C) gross state product by industry sector;
9 (D) business expenditures by industry sector;

10 and

- 11 (E) personal consumption by income class.

12 Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. (a)
13 The Legislative Budget Board may request assistance from the
14 comptroller or any other state agency, department, or office if the
15 board needs assistance to perform the review required by Section
16 320A.101. The comptroller or other agency, department, or office
17 shall provide the requested assistance.

18 (b) Notwithstanding Section 111.006, Tax Code, or other
19 law, the comptroller shall provide to the Legislative Budget Board
20 complete electronic access to tax files maintained by the
21 comptroller, as the staff of the board determines necessary to
22 perform a review required by Section 320A.101. An employee of the
23 board that accesses tax files maintained by the comptroller is
24 subject to the same duties and requirements regarding
25 confidentiality as an employee of the comptroller who accesses the
26 files.

1 SUBCHAPTER D. RECOMMENDATIONS REGARDING REVIEWED TAX PREFERENCES

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

10 Sec. 320A.152. FINAL REPORT. (a) The senate finance
11 committee, or its successor, and the house ways and means
12 committee, or its successor, shall review and may modify the
13 preliminary report and proposed legislation provided to the
14 committees under Section 320A.151.

15 (b) Not later than December 1 of each even-numbered year,
16 the senate finance committee, or its successor, and the house ways
17 and means committee, or its successor, shall provide to the
18 governor, the lieutenant governor, and the speaker of the house of
19 representatives a final report on the reviews of tax preferences
20 identified under Section 320A.051(a)(3). The final report must
21 include:

22 (1) as to each tax preference examined, a
23 recommendation to:

24 (A) continue the tax preference;
25 (B) amend a provision relating to the tax
26 preference; or

27 (C) repeal the tax preference;

- 1 (2) a complete explanation of each recommendation;
2 (3) proposed legislation necessary to implement the
3 findings of the final report; and
4 (4) a description of any deviations from the
5 preliminary report provided under Section 320A.151 that are made by
6 the final report, and a description of the reasons for each
7 deviation.

8 Sec. 320A.153. PUBLIC HEARING ON FINAL REPORT. The senate
9 finance committee, or its successor, and the house ways and means
10 committee, or its successor, shall hold a joint public hearing on
11 the final report and proposed legislation provided under Section
12 320A.152.

13 SUBCHAPTER E. EXPIRATION OF TAX PREFERENCES

14 Sec. 320A.201. EXPIRATION; REQUIRED STATEMENT. (a) Each
15 tax preference enacted by the legislature that becomes law on or
16 after September 1, 2016:

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

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

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

26 SECTION 2. The comptroller of public accounts shall submit
27 the initial state and local tax preference review schedule required

1 by Section 320A.053, Government Code, as added by this Act, not
2 later than January 15, 2016.

3 SECTION 3. The Legislative Budget Board shall submit the
4 initial preliminary report required by Section 320A.151,
5 Government Code, as added by this Act, not later than September 1,
6 2016.

7 SECTION 4. The senate finance committee and the house ways
8 and means committee shall submit the initial final report required
9 by Section 320A.152, Government Code, as added by this Act, not
10 later than December 1, 2016.

11 SECTION 5. This Act takes effect January 1, 2016, but only
12 if the constitutional amendment proposed by the 84th Legislature,
13 Regular Session, 2015, requiring the legislature to provide for a
14 periodic review of state and local tax preferences and providing
15 for the expiration of certain tax preferences six years after their
16 effective dates or at another time prescribed by the legislature is
17 approved by the voters. If that amendment is not approved by the
18 voters, this Act has no effect.