

BILL ANALYSIS

Senate Research Center
84R639 TJB-F

S.B. 80
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Finance
2/26/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the biennial Tax Exemptions & Tax Incidence report by the comptroller of public accounts of the State of Texas (comptroller), the exemptions in Texas' tax code totaled at least \$43.9 billion in 2013 alone. This figure includes "the effect ... of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting" for the sales tax, franchise tax, school property tax, motor vehicle tax, and any tax that generated more than five percent of state tax revenue in the prior fiscal year.

But there is no regular assessment of tax exemptions to determine their effect on job creation, their cost to the state, and their effect on Texas' tax burden. In fact, there is not even a comprehensive list of what tax exemptions are currently authorized by statute.

State agencies are subjected to a sunset review every 12 years to determine their effectiveness, whether they reach their intended goals, and if their functions need to be continued. The Tax Code would benefit from a similar periodic review of all its exemptions, discounts, exclusions, and special treatments to answer one simple question: are they working?

S.B. 80 does two things. First, the comptroller will identify each state and local tax preference authorized by state law and create a schedule under which they will be reviewed every 12 years. Next, each interim, the LBB will review tax preferences according to the comptroller's schedule to determine their fiscal and economic impacts and then produce a report.

As proposed, S.B. 80 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. DEFINITION. Defines "tax preference."

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) Requires the comptroller of public accounts of the State of Texas (comptroller) 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 Legislative Budget Board (LBB) is required to review for purposes of the next report due under Section 320A.051.

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

(c) Authorizes the comptroller, in developing the schedule, to schedule for review at the same time all tax preferences authorized in the same chapter of the Tax Code and schedule the initial review of a tax preference that has an expiration date for any date the comptroller determines is appropriate.

(d) Requires the comptroller to revise the schedule biennially only to:

- (1) add to the schedule a tax preference that was enacted after the comptroller developed the most recent schedule;
- (2) delete from the schedule a tax preference that was repealed or that expired after the comptroller developed the most recent schedule;
- (3) update the review dates of the tax preferences for which reviews were conducted after the comptroller developed the most recent schedule; and
- (4) update the tax preferences identified under Subsection(a)(3).

Sec. 320A.052. PUBLIC COMMENT. Requires the comptroller to provide a process by which the public may comment on the state and local tax preference review schedule under Section 320A.051. Requires the comptroller to consider those comments in developing or revising the schedule.

Sec. 320A.053. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET BOARD. Requires the comptroller, not later than December 1 of each odd-numbered year, to provide the state and local tax preference review schedule to the LBB.

SUBCHAPTER C. REVIEW OF STATE AND LOCAL TAX PREFERENCES

Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. Requires the 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 comptroller under Section 320A.053. Requires the LBB, in reviewing a tax preference, to:

- (1) summarize the legislative history of the tax preference;
- (2) estimate the amount of lost tax revenue attributable to the tax preference during the preceding 12-year period, including the percent reduction in the tax revenue of the related state or local tax, using amounts reported by the comptroller under Section 403.014 (Report on Effect of Certain Tax Provisions), if available;
- (3) determine the effect of the tax preference on the distribution of the tax burden by income class and industry or business class during the preceding 12-year

period, using amounts reported and data analyzed by the comptroller under Sections 403.014 and 403.0141 (Report on Incidence of Tax), if available; and

(4) evaluate, for a tax preference that reduces by more than one percent the total revenue of the related state or local tax, the fiscal impact of the tax preference during the preceding and following 12-year periods, based on a cost-benefit analysis of the general effects of the tax preference on the overall state economy, including the effects on job creation, average wage, gross state product and business expenditures by industry sector and personal consumption by income class.

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

(b) Requires the comptroller, notwithstanding Section 111.006 (Confidentiality of Information), Tax Code, or other law, to provide to the LBB complete electronic access to tax files maintained by the comptroller, as the staff of the LBB determines necessary to perform a review required by Section 320A.101. Provides that an employee of the LBB that accesses tax files maintained by the comptroller is subject to the same duties and requirements regarding confidentiality as an employee of the comptroller who accesses the files.

SUBCHAPTER D. REPORT ON TAX PREFERENCES

Sec. 320A.151. REPORT. Requires the LBB, not later than September 1 of each even-numbered year, to provide to the presiding officers of the senate finance committee or its successor, and the house ways and means committee or its successor, a report on the reviews of tax preferences identified under Section 320A.051(a)(3). Requires the LBB to post the report on the LBB's Internet website as soon as possible after the LBB provides the report to the presiding officers under this section.

SECTION 2. Requires the comptroller, notwithstanding Section 320A.053, Government Code, as added by this Act, to submit the initial state and local tax preference review schedule required by that section not later than January 15, 2016.

SECTION 3. Requires the LBB to submit the initial report required by Section 320A.151, Government Code, as added by this Act, not later than September 1, 2016.

SECTION 4. Effective date: January 1, 2016.