

BILL ANALYSIS

Senate Research Center
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S.B. 140
By: Ellis; Carona
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 continued existence of the tax expenditures, without any regard as to whether or not they achieve their intended effect, and unrelated to ensuring that the tax system collects revenue efficiently and fairly, can result in unjustified spending programs "hidden" within the tax code.

State agencies are subjected to a "sunset review" every 12 years to determine whether the agency is effective, whether the agency reaches its intended goals, and 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 to determine whether they are working.

Responsible budgeting and fiscal policy necessitates that the legislature be as prudent and transparent as possible with all appropriations and tax expenditures. S.B. 140 seeks to further that purpose by providing an effective mechanism for systematic review of tax expenditures to provide policymakers the information necessary to advance responsible, informed fiscal policy.

S.B. 140 addresses this problem by having the comptroller of public accounts of the State of Texas (comptroller) identify all state tax preferences and types of local tax preferences and setting a schedule for their review on a six year cycle. The bill requires the Legislative Budget Board to review the tax preferences according to the comptroller's schedule and prepare a report for the Senate Finance Committee and the House Ways and Means Committee. These committees will then determine whether to continue, alter, or repeal each tax preference and submits their report to the governor and lieutenant governor.

Each tax preference enacted on or after September 1, 2014, is required to expire in six years, and contain the statement "This tax preference expires six years after its effective date unless the legislature provides for an earlier or later expiration date."

As proposed, S.B. 140 amends current law relating to a periodic review and expiration dates 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."

[Reserves Sections 320A.002-320A.050 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) 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 six-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.151.

(b) Requires the comptroller, in developing the schedule, 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, except as provided in Subsection (c).

(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 or authorized 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 is authorized to 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, no later than December 1 of each odd-numbered year, to provide the state and local tax preference review schedule to LBB.

[Reserves Sections 320A.054-320A.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 comptroller under Section 320A.053. Requires LBB, in reviewing a tax preference, to:

- (1) determine the intended purpose of the tax preference; and
- (2) evaluate:
 - (A) whether the tax preference accomplishes its intended purpose;
 - (B) 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
 - (C) 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 presiding officers of the senate finance committee, or its successor, and the house ways and means committee, or its successor, a preliminary report on the reviews of tax preferences identified under Section 320A.051(a)(3). Requires that the report include drafts of any proposed legislation needed to implement LBB's recommendations.

Sec. 320A.152. FINAL REPORT. (a) Requires the senate finance committee, or its successor, and the house ways and means committee, or its successor, to review and authorizes those entities to modify the preliminary report and proposed legislation provided to the committees under Section 320A.151.

(b) Requires the senate finance committee, or its successor, and the house ways and means committee, or its successor, not later than December 1 of each even-numbered year, to provide to the governor, the lieutenant governor, and the speaker of the house of representatives a final report on the reviews of tax preferences identified under Section 320A.051(a)(3). Requires that the final report include:

- (1) as to each tax preference examined, a recommendation to continue the tax preference, amend a provision relating to the tax preference, or repeal the tax preference;
- (2) a complete explanation of each recommendation;
- (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, or its successor, and the house ways and means committee, or its successor, to hold a joint public hearing on the final report and proposed legislation provided under Section 320A.152.

[Reserves Sections 320A.154-320A.200 for expansion.]

SUBCHAPTER E. EXPIRATION OF TAX PREFERENCES

Sec. 320A.201. EXPIRATION; REQUIRED STATEMENT. (a) Provides that each tax preference enacted by the legislature that becomes law on or after September 1, 2014:

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

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

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

SECTION 2. Requires the comptroller to submit the initial state and local tax preference review schedule required by Section 320A.053, Government Code, as added by this Act, not later than January 15, 2014.

SECTION 3. 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, 2014.

SECTION 4. Requires the senate finance committee and the house ways and means committee to submit the initial final report required by Section 320A.152, Government Code, as added by this Act, not later than December 1, 2014.

SECTION 5. Effective date: January 1, 2014, contingent upon passage of the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, requiring the legislature to provide for a periodic review of state and local tax preferences and providing for the expiration of certain tax preferences six years after their effective dates or at another time prescribed by the legislature.