

2015 Regular Session

SENATE BILL NO. 75

BY SENATOR MILLS

TAX/TAXATION. Constitutional amendment to establish the Exemption Review Conference and provide for the review and certification of fiscal notes, the sunset of, review, and recommendation on the continuation of tax benefits, and establish certain procedures with respect to tax benefit legislation. (2/3-CA13s1(A))

A JOINT RESOLUTION

Proposing to amend Article III, Section 2(A)(2)(d) and to add Article III, Sections 2(A)(2)(e) and 15.1 and Article XIII, Section 1(A)(3) of the Constitution of Louisiana, relative to tax exemptions, exclusions, deductions, or credits against state tax; to define tax exemption legislation; to create the Exemption Review Conference and provide procedures for and mandatory review of tax exemption legislation; to provide for the termination of tax exemptions; to provide for official tax exemption analyses and recommendations; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article III, Section 2(A)(2)(d) and to add Article III, Sections 2(A)(2)(e) and 15.1 of the Constitution of Louisiana, to read as follows:

§2. Sessions

Section 2. (A) Annual Session.

* * *

1 (2) * * *

2 (d) Any legislative instrument that is subject to the procedures provided
3 for in Article III, Section 15.1 of this constitution for the Exemption Review
4 Conference that is to be filed for introduction in either house shall be prefiled
5 no later than five o'clock in the evening of December fifteenth in the year prior
6 to a regular session, and then shall be prefiled only if the Exemption
7 Explanatory Note required by that Section is filed with the legislative
8 instrument.

9 (e) The legislature is authorized to provide by joint rule for the procedures
10 for passage of duplicate or companion instruments.

11 * * *

12 §15.1. Regulation of tax exemptions; Exemption Review Conference

13 A. Definitions. The following terms shall have the following meanings as
14 used in this Section:

15 (1) "Tax exemption" or "exemption" means and includes any tax
16 exemption, exclusion, deduction, or credit against state tax.

17 (2) "Tax exemption instrument" means any bill which enacts a tax
18 exemption, or amends or renews an existing tax exemption, or any joint
19 resolution which adds a new exemption, or amends or renews an existing tax
20 exemption in this constitution, if such instrument would have the effect of
21 materially reducing state revenues.

22 B. Mandatory review and termination of tax exemptions.
23 Notwithstanding any other provision of this constitution or law to the contrary:

24 (1) On and after July 1, 2016, all tax exemption instruments shall be
25 prefiled with an Exemption Explanatory Note and shall terminate on June
26 thirtieth of the sixth year after their enactment. The Exemption Explanatory
27 Note shall set forth the fiscal and economic effects of the enactment of the tax
28 exemption instrument in the manner provided by law. Such tax exemption
29 instruments shall be subject to the official tax exemption analysis and

1 recommendation procedure provided for in Paragraph D of this Section.

2 (2) All tax exemptions existing prior to July 1, 2016, shall terminate on
3 June thirtieth of an odd-numbered year as shall be designated on a schedule of
4 terminations for such tax exemptions proposed by the Exemption Review
5 Conference and approved as shall be provided by law.

6 (3) If a tax exemption instrument, or any amendment to such a tax
7 exemption instrument, fails to obtain the official tax exemption analysis and to
8 undergo the review and recommendation procedure required in Paragraph D
9 of this Section, it shall be declared null and void by any court, and any resident
10 of the state shall have standing to file an action to void the instrument.

11 C. Exemption Review Conference. (1) The Exemption Review
12 Conference shall be composed of five members:

13 (a) The governor, or his designee.

14 (b) The president of the senate, or his designee.

15 (c) The speaker of the house, or his designee.

16 (d) Two economists who each have at least ten years of economic
17 forecasting expertise. The two economists and one alternate shall be selected by
18 the other three members from a list of as many as six, but no fewer than four
19 names, submitted to them by the Board of Regents after the board consults with
20 the president of the Louisiana Association of Independent Colleges and
21 Universities.

22 (2) Except as provided for in Subparagraph (D)(3) of this Section, all
23 conference decisions to adopt the official tax exemption analysis and the
24 recommendations required by this Section or to take any other action shall be
25 by a majority vote of its members. The legislature shall provide by law for the
26 recusal of a member.

27 D. Tax exemption instrument review and recommendation. (1) Promptly
28 upon the prefiling of a tax exemption instrument as provided for in Article II,
29 Section 2(A)(2)(d) and Article XIII, Section 1(A)(3) of this constitution, the chief

1 clerk officer of the house of the legislature in which the instrument was filed
2 shall provide to the Exemption Review Conference a copy of the tax exemption
3 instrument and the attached Exemption Explanatory Note. The two economist
4 members of the conference shall review the tax exemption instrument and the
5 Exemption Explanatory Note and shall prepare their own analysis, and then
6 shall prepare and present in writing to the Conference a proposed official tax
7 exemption analysis for adoption by the conference and a written proposal to the
8 conference for the type of action the conference should recommend to the
9 legislature with regard to the tax exemption instrument.

10 (2)(a) At a public meeting held for such purpose, the Exemption Review
11 Conference shall adopt an official tax exemption analysis and make an official
12 recommendation to the legislature with regard to the disposition of the tax
13 exemption instrument prior to the last day for filing legislative instruments in
14 that session, with reasons, of any of the following:

15 (i) For enactment, addition, or renewal of the tax exemption.

16 (ii) For enactment, addition, or renewal of the tax exemption with
17 modifications.

18 (iii) Against enactment, addition, or renewal of the tax exemption.

19 (b) The Exemption Review Conference recommendation and the official
20 tax exemption analysis shall be attached to the tax exemption instrument by the
21 chief clerk officer of the house of the legislature in which the instrument was
22 filed.

23 (3) Any tax exemption instrument which does not have an official tax
24 exemption analysis and a recommendation from the Exemption Review
25 Conference attached, or any tax exemption instrument which has been amended
26 and does not have a revised official tax exemption analysis and a
27 recommendation from the Exemption Review Conference attached, shall, at any
28 time, upon motion of any legislator, be referred to the conference for a
29 determination within five legislative days as to whether the instrument requires

1 such an analysis and recommendation. A decision that an official tax exemption
 2 analysis and a recommendation are needed shall require the affirmative vote of
 3 only two members of the conference. If the decision of the conference is that an
 4 official tax exemption analysis and a recommendation are required, then the
 5 Exemption Review Conference may either (a) proceed with the process
 6 provided for in Subparagraphs (1) and (2) of this Paragraph or (b) shall defer
 7 such process until the interim between legislative sessions. Notwithstanding
 8 Article III, Section 2(A)(3) of this constitution, if the conference elects to defer
 9 consideration of the tax exemption instrument, the instrument may be
 10 introduced and considered in the next regular session, whether an odd-
 11 numbered year regular session or not.

12 E. Implementing laws. After the initial enactment by the legislature of
 13 the laws required to implement the procedures of this Section, any legislative
 14 instrument amending such law shall be enacted by a favorable vote of
 15 two-thirds of the elected members of each house of the legislature.

16 * * *

17 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
 18 elected to each house concurring, that there shall be submitted to the electors of the state, for
 19 their approval or rejection in the manner provided by law, a proposal to add Article XIII,
 20 Section 1(A)(3) of the Constitution of Louisiana, to read as follows:

21 §1. Amendments

22 Section 1.(A) * * *

23 (3) Any joint resolution proposed at a regular session of the legislature
 24 which is subject to the procedures provided for in Article III, Section 15.1 of
 25 this constitution for the Exemption Review Conference that is to be filed for
 26 introduction in either house shall be prefiled no later than five o'clock in the
 27 evening of December fifteenth in the year prior to a regular session, and then
 28 shall be prefiled only if the Exemption Explanatory Note required by that
 29 Section is filed with the legislative instrument.

* * *

Section 3. Be it further resolved that this proposed amendment shall become effective on January 1, 2016.

Section 4. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on October 24, 2015.

Section 5. Be it further resolved that on the official ballot to be used at said election there shall be printed a proposition, upon which the electors of the state shall be permitted to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment to create the Exemption Review Conference; to require the termination of all existing tax exemptions, exclusions, deductions, or credits against state tax according to a schedule of terminations proposed by the conference and approved as provided by law and that new ones shall terminate on June 30 of the sixth year after their enactment; to require early prefiling and mandatory review of tax exemption, exclusion, deduction, and credit legislation by the conference and the conference's official tax exemption analyses and recommendations to the legislature concerning such legislation?

(Amends Article III, Sections 2(A)(2)(d); adds Article III, Sections 2(A)(2)(e) and 15.1 and Article XIII, Section 1(A)(3))

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

SB 75 Original 2015 Regular Session Mills

Proposed constitutional amendment provides that, on and after July 1, 2016, any bill or joint resolution that enacts a tax exemption or amends or renews an existing tax exemption, which would have the effect of materially reducing state revenues, shall be prefiled no later than December 15 in the year prior to a regular session and shall terminate on June 30 of the sixth year after its enactment. Requires that an Exemption Explanatory Note be attached which shall set forth the fiscal and economics of the exemption. Provides that a tax exemption instrument shall be subject to an official tax exemption analysis and recommendation procedure.

Proposed constitutional amendment provides that tax exemptions existing prior to July 1, 2016, shall terminate on June 30 of an odd-numbered year as shall be designated on a schedule of terminations for such tax exemptions, proposed by the Exemption Review Conference and approved as provided by law.

Proposed constitutional amendment provides that a tax exemption instrument or any amendment to such instrument shall be declared null and void by any court if the instrument or amendment fails to obtain the official tax exemption analysis and undergo the review and recommendation procedure.

Proposed constitutional amendment provides for the process for consideration of tax exemption instruments. It creates the Exemption Review Conference, composed of five members:

- (1) The governor, or his designee.
- (2) The president of the Senate, or his designee.
- (3) The speaker of the House of Representatives, or his designee
- (4) Two economists who each have at least 10 years of economic forecasting expertise. The two economists and one alternate shall be selected by the other three members from a list of as many as six, but no fewer than four names, submitted to them by the Board of Regents after the board consults with the president of the Louisiana Association of Independent Colleges and Universities.

Proposed constitutional amendment provides that decisions to adopt an official exemption analysis and recommendations or any other action shall be by a majority vote of the members. Recusal of a member shall be provided by law.

Proposed constitutional amendment provides that when a tax exemption instrument is prefiled, the chief clerical officer of the house of origin shall promptly provide a copy of the instrument and the attached Exemption Explanatory Note to the Exemption Review Conference. The two economists shall review the instrument and note, prepare their own analysis, and present the analysis in writing to the Conference for adoption, along with a written proposal for the type of action the Conference should recommend to the legislature regarding the instrument.

Proposed constitutional amendment provides that prior to the last day for prefiling legislative instruments in a legislative session, the Exemption Review Conference shall, in a public meeting, adopt an official tax exemption analysis and make an official recommendation to the legislature regarding the disposition of the tax exemption instrument, with reasons, of any of the following:

- (1) For enactment, addition, or renewal of the tax exemption.
- (2) For enactment, addition, or renewal of the tax exemption with modifications.
- (3) Against enactment, addition, or renewal of the tax exemption.

Requires that the Exemption Review Conference recommendation and the official tax exemption analysis be attached to the tax exemption instrument by the chief clerical officer of the house of the legislature where the instrument was filed.

Proposed constitutional amendment provides that a tax exemption instrument that does not have an official tax exemption analysis and recommendation attached, or any tax exemption instrument that has been amended and has no revised analysis and recommendation attached, shall at any time, upon the motion of any legislator, be referred to the conference for a

determination within five legislative days as to whether the instrument requires such an analysis and recommendation. A decision that an analysis and recommendation are needed shall require the affirmative vote of only two members of the conference.

Proposed constitutional amendment provides that if the decision is that an analysis and recommendation are required, then the Exemption Review Conference may either proceed with preparation of an analysis and recommendation, or defer the process until the interim between legislative sessions. Provides that if the item is deferred, it may be introduced and considered in the next regular session, whether it is an odd-numbered year session or not.

Proposed constitutional amendment requires that after the enactment of laws required to implement the procedures described herein, any legislative instrument amending such law shall require a two-thirds vote of each house.

Specifies submission of the amendment to the voters at the statewide election to be held on October 24, 2015.

Effective January 1, 2016.

(Amends Const. Art. III, Sec. 2(A)(2)(d); Adds Const. Art. III, Sec. 2(A)(2)(e) and 15.1 and Art. XIII, Sec. 1.(A)(3))