

2015 Regular Session

SENATE BILL NO. 78

BY SENATOR MILLS

TAX/TAXATION. Establishes the Exemption Review Conference and provides for the review and certification of fiscal notes, the sunset of, review, and recommendation on the continuation of tax benefits, and establishes certain procedures with respect to tax benefit legislation. (See Act)

1 AN ACT

2 To enact Chapter 21 of Title 24 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 24:991 through 994, relative to tax exemptions, exclusions, deductions, and
4 credits against state tax; to create the exemption review conference; to provide for
5 official tax exemption analyses and recommendations; to provide for certain
6 procedures for tax exemption instruments; to provide for mandatory review and
7 termination of tax exemptions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 24:991 through 994 are hereby enacted to read as follows:

10 **CHAPTER 21. EXEMPTION REVIEW CONFERENCE**

11 **§991. Definitions**

12 **As used in this Chapter, the following terms shall have the following**
13 **meanings unless another meaning is clearly required by its context:**

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

16 **(2) "Tax exemption instrument" means any bill that enacts, amends, or**
17 **renews an existing tax exemption, or any joint resolution that adds a new**

1 exemption, or amends or renews an existing tax exemption in the Constitution
2 of Louisiana, if such instrument would have the effect of materially reducing
3 state revenues.

4 §992. Exemption Review Conference

5 A.(1) The Exemption Review Conference shall be composed of five
6 members:

7 (a) The governor, or his designee.

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

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

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

15 (2) The Board of Regents in consultation with the president of the
16 Louisiana Association of Independent Colleges and Universities shall propose
17 the compensation to be paid to the two economist members of the conference to
18 ensure that they receive fair market value for their services to the conference.

19 B.(1) A member of the conference shall preside over conference
20 meetings, convene such meetings, request information, and specify topics to be
21 included on the conference agenda.

22 (2) The members shall elect from their membership the initial chair of
23 the conference. Thereafter the chair shall rotate among the membership
24 annually in an order that shall be determined by the members of the conference
25 in their initial meeting. No one member shall serve as chair more than once in
26 a five-year period. The chair shall be responsible for preparing and distributing
27 the proposed tax exemption analysis for adoption by the conference, the written
28 proposals for recommendations on tax exemption instruments prepared by the
29 economist members, and any other workpapers or information that the

1 conference members determine may be necessary prior to a meeting of the
2 conference.

3 (3) Four members of the conference shall constitute a quorum for the
4 transaction of business.

5 C.(1) All conference decisions to adopt the official tax exemption analysis
6 and the recommendations required by this Section or to take any other action
7 shall be by a majority vote of the total membership of the conference except that
8 a decision of the conference that a new or updated official analyses and
9 recommendation are needed shall require the affirmative vote of only two
10 members of the conference.

11 (2) An economist member of the conference shall recuse himself if he has
12 a material interest in any tax exemption instrument before the conference for
13 the review required by this Chapter. The alternate economist shall serve in
14 place of the recused member. The same procedure shall be utilized in the event
15 an economist member is otherwise prevented from participating in conference
16 activities.

17 §993. Tax exemption instrument review and recommendation

18 A. Each tax exemption instrument required to be prefiled pursuant to
19 the Constitution of Louisiana shall be prefiled with an Exemption Explanatory
20 Note attached to the instrument prepared by the author, or by a proponent of
21 the instrument on the author's behalf, relative to the economic effects of the
22 enactment of the legislative instrument. The Exemption Explanatory Note shall
23 include the following:

24 (1) The total decrease in taxes, fees, charges or other revenue estimated
25 over the five ensuing fiscal years from the instrument's effective date.

26 (2) The state's revenue loss ratio; that is, the amount of money to be
27 gained by the state compared to the cost of the benefit granted.

28 (3) The effect on household earnings, employment, and value added in
29 Louisiana.

1 (4) An indication of which beneficial economic actions will be
2 incentivized by the instrument.

3 (5) Data indicating whether the same or similar provisions have been
4 enacted in other states or territories of the United States or other nations.

5 (6) The methodology and assumptions utilized to produce the
6 information in the report.

7 C.(1) Promptly upon such prefiling, the chief clerical officer of the house
8 of the legislature in which the instrument was filed shall provide to the
9 Exemption Review Conference a copy of the tax exemption instrument and the
10 attached Exemption Explanatory Note. The two economist members of the
11 conference shall review the tax exemption instrument and the note. The review
12 shall encompass all aspects of the instrument and the note including but not
13 limited to the following:

14 (a) The reasonableness of the revenue loss estimates.

15 (b) The validity, credibility, or reasonableness of the information in the
16 Exemption Explanatory Note or the methodology and assumptions utilized to
17 produce the information, or questions raised by such information or
18 methodology.

19 (c) Whether the actions being incentivized are already occurring without
20 the enactment of the instrument.

21 (d) A review of the data in the Exemption Explanatory Note and from
22 other sources as to whether the same or similar provisions have been enacted
23 in other states or territories of the United States or other nations.

24 (e) Any other information not included in the Exemption Explanatory
25 Note which may have a bearing on the question of whether the conference
26 should recommend the tax exemption instrument for enactment.

27 (2)(a) The two economist members of the Exemption Review Conference
28 shall prepare their own analysis, and then shall prepare and present in writing
29 to the other members of the conference a proposed tax exemption analysis for

1 certification by the adoption conference and a written proposal to the
2 conference for the type of action the conference should recommend to the
3 legislature with regard to the tax exemption instrument.

4 (b) The Exemption Review Conference shall meet and adopt an official
5 tax exemption analysis and make an official recommendation to the legislature
6 with regard to the disposition of the tax exemption instrument prior to the last
7 day for filing legislative instruments for the session in which the instrument is
8 prefiled, with reasons, of any of the following:

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

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

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

13 (c) The Exemption Review Conference recommendation and the official
14 tax exemption analysis shall be delivered to the chief clerical officer of the house
15 of the legislature in which the tax exemption instrument is prefiled and such
16 officer shall attach the recommendation and the analysis to the tax exemption
17 instrument.

18 (3) Any tax exemption instrument, or any amendment to a tax exemption
19 instrument, which does not have an official tax exemption analysis or a
20 recommendation from the Exemption Review Conference attached, shall, at any
21 time, upon motion of any legislator, be referred to the conference for a
22 determination within five legislative days as to whether the instrument requires
23 a new or revised analysis and recommendation. A decision that a new or revised
24 analysis and recommendation are needed shall require the affirmative vote of
25 only two members of the conference. If the decision of the conference is that a
26 new or revised analysis and recommendation are required, then the Exemption
27 Review Conference may either proceed with the process provided for in
28 Paragraphs (1) and (2) of this Subsection or shall defer such process until the
29 interim between legislative sessions.

1 D. All meetings of the Exemption Review Conference shall be open to the
2 public as provided in R.S. 42:11 et seq. The conference shall consider
3 information provided by any participants at meetings of the conference,
4 including any testimony from the author of the tax exemption instrument,
5 proponents of the instrument on the author's behalf, and any other member of
6 the public in developing the official tax exemption analysis and recommendation
7 for a tax exemption instrument.

8 E. The Exemption Review Conference may utilize whatever staff,
9 information, and technical expertise which it may determine is required to
10 prepare a tax exemption analysis or a recommendation. The conference may
11 request and shall receive from all public officers, departments, agencies, and
12 authorities of the state and its political subdivisions such assistance and data as
13 will enable the conference to fulfill its duties.

14 §994. Schedule of tax exemption termination

15 A. The Exemption Review Conference shall prepare a schedule no later
16 than September 1, 2016, designating which tax exemptions existing prior to July
17 1, 2016, shall terminate on June thirtieth of each odd-numbered year as
18 required by Article III, Section 15.1(B)(2) of the Constitution of Louisiana. The
19 first such tax exemptions on the schedule to be terminated shall terminate on
20 June 30, 2017. The schedule shall be prepared so that the conference shall have
21 sufficient time to give each tax exemption a thorough review for the purpose of
22 preparing a tax exemption analysis and a recommendation in the event tax
23 exemption instruments are prefiled to renew all the tax exemptions terminating
24 on the June thirtieth of that odd-numbered year.

25 B. The schedule provided for in Subsection A shall be reviewed and may
26 be amended by the Senate Committee on Revenue and Fiscal Affairs and the
27 House Committee on Ways and Means meeting jointly. If the committees do not
28 meet jointly within sixty days of the schedule's receipt from the Exemption
29 Review Conference by the committees, or if the committees can not reach

1 **agreement on the schedule, the schedule shall be considered approved.**

2 Section 2. The commissioner of administration shall convene the initial meeting of
3 Exemption Review Conference on or before January 1, 2016, and shall preside until the
4 economist members are selected and there is an election for a chair. The initial selection of
5 the two economists and one alternate shall occur by May 1, 2016.

6 Section 3. This Act shall take effect and become operative if and when the proposed
7 amendment of Article III, Sections 2(A)(2)(d) and 15.1 and Article XIII, Section 1(A)(3),
8 and the addition of Article III, Sections 2(A)(2)(e) of the Constitution of Louisiana contained
9 in the Act which originated as Senate Bill No. _____ of this 2015 Regular Session of the
10 Legislature is adopted at the statewide election to be held on October 24, 2015, and becomes
11 effective.

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

DIGEST

SB 78 Original 2015 Regular Session Mills

Proposed law provides that 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, and required to be prefiled shall have an Exemption Explanatory Note attached that is prepared by the author, or by a proponent of the instrument on the author's behalf relative to the fiscal and economics of the exemption.

Requires the proposed Exemption Explanatory Note to include the following:

- (1) The total decrease in taxes, fees, charges or other revenue estimated over the five ensuing fiscal years from the instrument's effective date.
- (2) The state's revenue loss ratio; that is, the amount of money to be gained by the state compared to the cost of the benefit granted.
- (3) The effect on household earnings, employment, and value added in Louisiana.
- (4) An indication of which beneficial economic actions will be incentivized by the instrument.
- (5) Data indicating whether the same or similar provisions have been enacted in other states or territories of the United States or other nations.
- (6) The methodology and assumptions utilized to produce the information in the report.

Proposed law creates the Exemption Review Conference (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.

Provides that the Board of Regents in consultation with the La. Assn. of Independent Colleges and Universities shall propose the compensation to be paid to the economist members of the conference.

Requires the election of the initial chair of the conference from the membership. Thereafter, the chair shall rotate among the membership annually, with no one member serving as chair more than once in a five-year period. Provides for the duties of the chair.

Provides for the commissioner of administration to convene the initial meeting of the conference on or before January 31, 2016, and preside until the economist members are selected and there is an election for a chair. The initial selection of the two economists and alternate shall occur by May 1, 2016.

Proposed law provides that four members of the Conference shall constitute a quorum for the transaction of business and requires the Conference to be subject to the Open Meetings Law. Requires the conference to consider information provided by any participant at meetings of the conference, including members of the public.

Authorizes the Conference to utilize whatever staff, information, and technical expertise is required in its determinations, and the Conference may request and shall receive assistance from any public entity.

Proposed law provides that decisions to adopt an official exemption analysis and recommendations or any other action shall be by a majority vote of the total membership of the conference.

Proposed law requires an economist member of the conference to recuse himself if he has a material interest in any tax exemption instrument before the conference. The alternate economist shall serve in place of the recused member.

Proposed law 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, which review shall encompass all aspects of the instrument and note, including but not limited to the following:

- (1) The reasonableness of the revenue loss estimates.
- (2) The validity, credibility, or reasonableness of the information in the Exemption Explanatory Note or the methodology and assumptions utilized to produce the information, or questions raised by such information or methodology.
- (3) Whether the actions being incentivized are already occurring without the enactment of the instrument.
- (4) A review of the data in the Exemption Explanatory Note and from other sources as to whether the same or similar provisions have been enacted in other states or

territories of the United States or other nations.

- (5) Any other information not included in the Exemption Explanatory Note which may have a bearing on the question of whether the conference should recommend the tax exemption instrument for enactment.

Proposed law provides for the two economists to 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 law 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 law 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 law 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 law requires the conference to prepare a schedule no later than September 1, 2016, designating which tax exemptions existing prior to July 1, 2016, shall terminate on June 30 of each odd-numbered year. The schedule shall be prepared so that each exemption is given sufficient time for a thorough review for the purpose of preparing an analysis and recommendation in the event tax exemption instruments are prefiled to renew all the exemptions terminating on June 30 of that odd-numbered year.

The first such tax exemptions to be terminated shall terminate on June 30, 2017.

The schedule shall be reviewed and may be amended by the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means meeting jointly. If the committees do not meet jointly within 60 days of receipt of the schedule, or if the committees cannot reach agreement, the schedule shall be considered approved.

Effective if and when the proposed amendment of Article III, Sections 2(A)(2)(d) and 15.1 and Article XIII, Section 1(A)(3), and the addition of Article III, Sections 2(A)(2)(e) of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. _____ of the 2015 Regular Session of the Legislature is adopted at the statewide election to be held

on October 24, 2015, and becomes effective.

(Adds R.S. 24:991-994)