

1 (2) * * *

2 (d) For any regular session for which the provisions of Article III,
 3 Section 15.1 of this constitution are effective, any legislative instrument that is
 4 to be filed for introduction in either house and that is subject to the procedures
 5 provided for in that Section for the Exemption Review Conference shall be
 6 prefiled no later than five o'clock in the evening of the forty-fifth calendar day
 7 prior to the first day of such regular session, and then shall be prefiled only if
 8 the Exemption Explanatory Note required by that Section is filed with the
 9 legislative instrument.

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

12 * * *

13 **§15.1. Regulation of tax exemptions; Exemption Review Conference**

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

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

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

23 **B. The provisions of this Section shall only be effective for tax exemption**
 24 **instruments filed for introduction in a regular session for which the Legislative**
 25 **Auditor has provided written certification to the governor, the President of the**
 26 **Senate, and the Speaker of the House of Representatives by August first of the**
 27 **year prior to such regular session that the legislature has appropriated funds**
 28 **sufficient to adequately compensate both economist members of the Exemption**
 29 **Review Conference for their services for that regular session.**

1 C. Mandatory review of tax exemptions. Notwithstanding any other
2 provision of this constitution or law to the contrary:

3 (1) All tax exemption instruments intended to be filed in a regular session
4 when the provisions of this Section are effective shall be prefiled with an
5 Exemption Explanatory Note. The Exemption Explanatory Note shall set forth
6 the fiscal and economic effects of the enactment of the tax exemption instrument
7 in the manner provided by law. Such tax exemption instruments shall be subject
8 to the official tax exemption analysis and recommendation procedure provided
9 for in Paragraph D of this Section.

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

15 D. Exemption Review Conference. (1) The Exemption Review
16 Conference shall be composed of five members:

17 (a) The governor, or his designee.

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

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

20 (d) The Legislative Auditor, or his designee.

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

27 (2) Except as provided for in Subparagraph (D)(3) of this Section, all
28 conference decisions to adopt the official tax exemption analysis and the
29 recommendations required by this Section or to take any other action shall be

1 by a majority vote of its members. The legislature shall provide by law for the
2 recusal of a member.

3 E. Tax exemption instrument review and recommendation. (1) Promptly
4 upon the prefiling of a tax exemption instrument as provided for in Article II,
5 Section 2(A)(2)(d) and Article XIII, Section 1(A)(3) of this constitution, the chief
6 clerical officer of the house of the legislature in which the instrument was filed
7 shall provide to the Exemption Review Conference a copy of the tax exemption
8 instrument and the attached Exemption Explanatory Note. The two economist
9 members of the conference shall review the tax exemption instrument and the
10 Exemption Explanatory Note and shall prepare their own analysis, and then
11 shall prepare and present in writing to the Conference a proposed official tax
12 exemption analysis for adoption by the conference and a written proposal to the
13 conference for the type of action the conference should recommend to the
14 legislature with regard to the tax exemption instrument.

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

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

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

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

24 (b) The Exemption Review Conference recommendation and the official
25 tax exemption analysis shall be attached to the tax exemption instrument by the
26 chief clerical officer of the house of the legislature in which the instrument was
27 filed.

28 (3) Any tax exemption instrument which does not have an official tax
29 exemption analysis and a recommendation from the Exemption Review

1 Conference attached, or any tax exemption instrument which has been amended
 2 and does not have a revised official tax exemption analysis and a
 3 recommendation from the Exemption Review Conference attached, shall, at any
 4 time, upon motion of any legislator, be referred to the conference for a
 5 determination within five legislative days as to whether the instrument requires
 6 such an analysis and recommendation. A decision that an official tax exemption
 7 analysis and a recommendation are needed shall require the affirmative vote of
 8 only two members of the conference. If the decision of the conference is that an
 9 official tax exemption analysis and a recommendation are required, then the
 10 Exemption Review Conference may either (a) proceed with the process
 11 provided for in Subparagraphs (1) and (2) of this Paragraph or (b) shall defer
 12 such process until the interim between legislative sessions. Notwithstanding
 13 Article III, Section 2(A)(3) of this constitution, if the conference elects to defer
 14 consideration of the tax exemption instrument, the instrument may be
 15 introduced and considered in the next regular session, whether an odd-
 16 numbered year regular session or not.

17 F. Implementing laws. After the initial enactment by the legislature of
 18 the laws required to implement the procedures of this Section, any legislative
 19 instrument amending such law shall be enacted by a favorable vote of
 20 two-thirds of the elected members of each house of the legislature.

21 * * *

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

26 §1. Amendments

27 Section 1.(A) * * *

28 (3) For any regular session for which the provisions of Article III, Section
 29 15.1 of this constitution are effective, any joint resolution proposed at such

1 (Amends Article III, Sections 2(A)(2)(d); adds Article III, Sections
2 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 Engrossed

2015 Regular Session

Mills

Proposed constitutional amendment provides that for any regular session for which the provisions of the proposed constitutional amendment are effective, any legislative instrument or joint resolution that is to be filed for introduction that is subject to its procedures shall be prefiled no later than five o'clock in the evening of the forty-fifth calendar day prior to the first day of such regular session.

Requires that an Exemption Explanatory Note be attached which shall set forth the fiscal and economic effects of the exemption.

Proposed constitutional amendment provides that a "tax exemption instrument" must be subject to an official tax exemption analysis and recommendation procedure - which is defined as any bill or any joint resolution which enacts a "tax exemption", or amends or renews an existing "tax exemption", if such instrument would have the effect of materially reducing state revenues. "Tax exemption" is broadly defined to mean and include any tax exemption, exclusion, deduction, or credit against state tax.

However, the requirement is only effective for tax exemption instruments in a regular session for which the Legislative Auditor has provided written certification to the governor, the President of the Senate, and the Speaker of the House of Representatives by August First of the year prior to such regular session that the legislature has appropriated funds sufficient to adequately compensate both economist members of the Exemption Review Conference for their services for that regular session.

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 creates the Exemption Review Conference, composed of six 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) The Legislative Auditor, or his designee.
- (5) 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 must promptly provide a copy of the instrument and the attached Exemption Explanatory Note to the Exemption Review Conference. The two economists must 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 pre-filing 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 on January 1, 2016, but only for the purpose of allowing the legislature an opportunity to appropriate funds sufficient to adequately compensate both economist members of the Exemption Review Conference for their services for the 2017 Regular Session of the Legislature and regular sessions thereafter. The remainder of the proposed constitutional amendment becomes effective July 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))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Removes required 6-year sunset of both new and existing tax exemptions, exclusions, deductions, and credits.
2. Makes the prefiling requirement, and the review and recommendation process applicable only in a regular session for which the Legislative Auditor has provided written certification by August 1st of the year prior to such regular session that the legislature has appropriated funds sufficient to adequately compensate both economist members of the Exemption Review Conference for their services for that regular session.
3. Adds the Legislative Auditor, or his designee, as a member of the Conference.
4. Modifies the effective date as set forth above.