



Ohio Legislative Service Commission

Bill Analysis

Megan Cummiskey

H.B. 446

129th General Assembly
(As Introduced)

Reps. Driehaus and Foley, Blair, R. Hagan, Goyal, Antonio, Garland, Boyd, Letson, Ramos, Okey, Stinziano, Yuko, Murray, Williams, Goodwin, Henne

BILL SUMMARY

- Requires an act that creates a tax expenditure to specify the purpose served by the expenditure, the schedule of review of the expenditure by the Tax Expenditure Review Committee, the class of taxpayers to benefit from the expenditure, and the method to be used to appraise the expenditure's effectiveness in serving its purpose.
- Creates the Tax Expenditure Review Committee to review tax expenditures, consisting of two members of the House of Representatives, two members of the Senate, a member appointed by the Governor, and the Tax Commissioner and Director of Budget and Management, or their designees.
- Requires the Tax Commissioner and any state official responsible for administering a tax expenditure to submit a report to the Committee about the tax expenditure on or before the public hearing date scheduled for the review of the tax expenditure by the Committee.
- Establishes the schedule of review of tax expenditures by the Committee.
- Requires the Tax Commissioner to prepare a list of all tax expenditures in existence on the bill's effective date to aid in the establishment of the schedule of review.
- Requires the Committee to prepare a yearly report of its appraisals of tax expenditures and submit that report to the Governor and all members of the General Assembly.
- Requires the Legislative Service Commission (LSC) to prepare and submit to the Committee an annual report that includes certain information about each tax

expenditure in the Revised Code and requires LSC to provide drafting and clerical support to the Committee.

CONTENT AND OPERATION

Requirements for legislation creating tax expenditures

The bill requires that an act creating a tax expenditure must specify all of the following:¹

(1) The purpose served by the tax expenditure;

(2) Whether the tax expenditure must be reviewed in every even-numbered or odd-numbered year by the Tax Expenditure Review Committee (*see below*);

(3) The class of taxpayers that will benefit from the tax expenditure;

(4) Methods to be used to appraise the tax expenditure's effectiveness in serving its purpose. The bill states that this requirement may be fulfilled by applying general statutes or by enacting statutory provisions that apply particularly to the tax expenditure.

Under the bill, "tax expenditure" means any tax provision in the Revised Code that exempts, either in whole or in part, certain persons, income, goods, services, or property from the effect of taxes established in the Revised Code, including tax deductions, exemptions, deferrals, exclusions, allowances, credits, reimbursements, and preferential tax rates.²

Tax Expenditure Review Committee

The bill creates the Tax Expenditure Review Committee. The Committee's primary duty is to review all tax expenditures created in the Revised Code once every two years.³ The Committee's membership, administration, and other procedural matters are outlined in the table below.⁴

¹ R.C. 5703.953.

² R.C. 5703.95(A)(1); R.C. 5703.48, not in the bill.

³ R.C. 5703.95 and 5703.954.

⁴ R.C. 5703.954 and Section 3.

Voting Committee members	<p>One member, appointed by the Governor.</p> <p>Two members of the House of Representatives, one from each political party, appointed by the Speaker of the House.</p> <p>Two members of the Senate, one from each political party, appointed by the President of the Senate.</p>
Nonvoting, <i>ex-officio</i> Committee members	The Tax Commissioner and the Director of Budget and Management, or their designees.
Approval of appointees	The Governor's appointment is subject to the advice and consent of the Senate.
Committee member compensation	No compensation.
Reimbursement for expenses	Yes – if incurred for actual and necessary expenses of performing committee duties.
Initial appointment deadline	Initial appointments must be made not later than 30 days after the bill's effective date.
Initial term of office	<p>The term of an initial member appointed by the Speaker or President lasts until the member's successor is appointed to the Committee or until the member ceases to be a member of the General Assembly, whichever is earlier.</p> <p>The term of the initial member appointed by the Governor ends December 31, 2012.</p>
Standard appointment deadline	Appointments for all members must be made within 15 days after the first day of the first regular session of the General Assembly.
Standard term of office	<p>The Speaker's and President's appointments are for terms that continue until each such member's successor is appointed or until the member ceases to be a member of the Senate or House of Representatives, whichever is earlier.</p> <p>For the Governor's appointment, the term of office is for a term ending on December 31st of each even-numbered year, except that this member continues to be a member after the expiration of the member's term until the member's successor is appointed, or until 30 days have elapsed, whichever occurs first.</p>
Filling of vacancies	In the same manner as the original appointment.
Term of office for members appointed to fill a vacancy	A member appointed to fill a vacancy occurring prior to the expiration of the term to which the member's predecessor was appointed is to continue as a member for the remainder of the unexpired term.
Selection of Committee chairperson and vice-chairperson	In the first regular session of the General Assembly, the Committee must elect one of the members appointed from the House of Representatives as chairperson of the Committee and one of the members appointed from the Senate as vice-chairperson of the Committee.

	In the second regular session of the General Assembly, the Committee must elect one of the members appointed from the Senate as chairperson of the Committee and one of the members appointed from the House of Representatives as vice-chairperson of the Committee.
Frequency of Committee meetings	As often as necessary to perform the Committee's duties.
Quorum and voting requirements	Three voting members of the Committee constitute a quorum and as long as a quorum is present, a vacancy on the Committee does not impair the ability of the remaining members to perform Committee duties. No action may be taken by the Committee without the concurrence of at least three voting members.

Committee review of tax expenditures

The Committee must hold at least one public hearing on a tax expenditure in each year in which the tax expenditure is scheduled for review (*see below*). The Tax Commissioner is required to publish a notice of these hearings in the Register of Ohio. During the public hearing on a tax expenditure, the Committee must allow any person to present testimony or evidence relevant to that tax expenditure.

On or before the date of the public hearing scheduled for a tax expenditure, the Tax Commissioner and any other state official responsible for administering the tax expenditure must submit to the Committee a report that does each of the following:

- (1) Explains the tax expenditure's purpose;
- (2) Expresses an opinion as to the public need for the tax expenditure;
- (3) Expresses an opinion as to whether the tax expenditure has been impeded or enhanced by existing statutes;
- (4) Describes how, if at all, the tax expenditure promotes economic growth and development;
- (5) Provides an estimate of the amount of tax revenue forgone each fiscal year as a result of the tax expenditure;
- (6) Expresses an opinion as to whether the tax expenditure should be repealed;
- (7) Contains any other information relevant to the Committee's appraisal of the tax expenditure.

After a public hearing on a tax expenditure, the Committee must appraise the tax expenditure. In making its appraisal, the Committee must consider the report submitted by the Tax Commissioner, as required above, the annual report submitted by the Legislative Service Commission (*see below*), and knowledge gleaned from the hearing, but is not limited to those sources. The Department of Taxation, the Office of Budget and Management, and any other state agency, at the Committee's request, is required to provide the Committee with any information in its possession that the Committee requires to appraise the tax expenditure.⁵

Schedule of review of tax expenditures

For tax expenditures created before April 15, 2012, the Committee must review one-half of such tax expenditures in every even-numbered year and one-half of such tax expenditures in every odd-numbered year.

The Committee must review tax expenditures created on or after April 15, 2012, according to the following schedule:

(1) Tax expenditures created in an even-numbered year must be reviewed in every subsequent even-numbered year;

(2) Tax expenditures created in an odd-numbered year must be reviewed in every subsequent odd-numbered year.

To determine the proper date of review, the bill states that a tax expenditure is created on the effective date of the amendment or enactment of the section of the Revised Code that authorizes the tax expenditure.⁶

The Committee must use the initial list of tax expenditures generated by the Tax Commissioner (*see below*) to prepare a schedule for appraising one-half of the tax expenditures so that the appraisal and the report required for those tax expenditures will be completed not later than November 1, 2012. The schedule is to provide for the appraisal of the remaining tax expenditures during the 2013 calendar year.⁷

⁵ R.C. 5703.951.

⁶ R.C. 5703.95.

⁷ Section 2.

Annual tax expenditure appraisal report

On or before the first day of November of each year in which a tax expenditure is scheduled for review, the Committee must prepare a report of its appraisal of the tax expenditure that contains all of the following:

- (1) A statement of the purpose served by the tax expenditure;
- (2) An appraisal of the tax expenditure's effectiveness in serving its purpose;
- (3) An evaluation of whether the tax expenditure's purpose serves a public need;
- (4) An evaluation of whether other statutes have enhanced or impeded the tax expenditure's effectiveness in serving its purpose;
- (5) An appraisal of whether the tax expenditure promotes economic growth and development;
- (6) An estimate of the amount of revenue lost each fiscal year because of the tax expenditure;
- (7) A recommendation as to whether the tax expenditure should be repealed;
- (8) Any other information the Committee considers relevant.

In an appendix to its report, the Committee may include a draft of a bill that would do any of the following:

- (1) Improve the tax expenditure's effectiveness in serving its purpose;
- (2) Redefine the tax expenditure's purpose to serve or better serve a public need;
- (3) Retain or improve the statutes that enhance, or amend or repeal statutes that impede, the tax expenditure's effectiveness in serving its purpose;
- (4) Improve the tax expenditure's effectiveness in promoting economic growth and development;
- (5) Reduce the amount of revenue lost as a result of the tax expenditure;
- (6) Repeal the tax expenditure.

The Committee must provide a copy of the report to the Governor and each member of the General Assembly. The bill provides that this report is a public record.⁸

Tax Commissioner duties

Under the bill, the Tax Commissioner is required to prepare a list of the tax expenditures in existence on April 15, 2012, and must provide a copy of the list to the chairperson of the Tax Expenditure Review Committee.⁹

Legislative Service Commission duties

Beginning in 2012, the Legislative Service Commission (LSC) must prepare and submit to the Committee an annual report that describes each tax expenditure created in the Revised Code, identifies the tax expenditure's intended purpose, and, if applicable, appraises the tax expenditure's effectiveness using the methods prescribed in the act creating the tax expenditure. LSC must also provide drafting and clerical support to the Committee.¹⁰

HISTORY

ACTION	DATE
Introduced	02-08-2012

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⁸ R.C. 5703.952.

⁹ Section 2.

¹⁰ R.C. 5703.951(C) and (D).