As Reported by the House Ways and Means Committee

131st General Assembly
Regular Session
2015-2016

Sub. H. B. No. 9

Representative Boose
Cosponsors: Representatives Blessing, Hambley, Hood, Scherer, Sprague, Strahorn, Young, Dever, Driehaus, Rogers

A BILL

To amend sections 107.03 and 5703.48 and to enact section 5703.95 of the Revised Code to create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing tax expenditures.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 107.03 and 5703.48 be amended and section 5703.95 of the Revised Code be enacted to read as follows:

Sec. 107.03. The governor shall submit to the general assembly, not later than four weeks after its organization, a state budget containing a complete financial plan for the ensuing fiscal biennium, excluding items of revenue and expenditure described in section 126.022 of the Revised Code. However, in years of a new governor's inauguration, the budget shall be submitted not later than the fifteenth day of March. In years of a new governor's inauguration, only the new governor shall submit a budget to the general assembly. In addition to other things required by law, the governor's budget shall contain:

(A) A general budget summary by function and agency setting forth the proposed total expenses from each and all funds and the anticipated resources for meeting such expenses; such resources to include any available balances in the several funds at the beginning of the biennium and a classification by totals of all revenue receipts estimated to accrue during the biennium under existing law and proposed legislation.

(B) A detailed statement showing the amounts recommended to be appropriated from each fund for each fiscal year of the biennium for current expenses, including, but not limited to, personal services, supplies and materials, equipment, subsidies and revenue distribution, merchandise for resale, transfers, and nonexpense disbursements, obligations, interest on debt, and retirement of debt, and for the biennium for capital outlay, to the respective departments, offices, institutions, as defined in section 121.01 of the Revised Code, and all other public purposes; and, in comparative form, the actual expenses by source of funds during each fiscal year of the previous two bienniums for each such purpose. No alterations shall be made in the requests for the legislative and judicial branches of the state filed with the director of budget and management under section 126.02 of the Revised Code. If any amount of federal money is recommended to be appropriated or has been expended for a purpose for which state money also is recommended to be appropriated or has been expended, the amounts of federal money and state money involved shall be separately identified.

(C) A detailed estimate of the revenue receipts in each fund from each source under existing laws during each year of the biennium; and, in comparative form, actual revenue receipts in each fund from each source for each year of the two previous bienniums;

(D) The estimated cash balance in each fund at the beginning of the biennium covered by the budget; the estimated liabilities outstanding against each such balance; and the estimated net balance remaining and available for new appropriations;

(E) A detailed estimate of the additional revenue receipts in each fund from each source under proposed legislation, if enacted, during each year of the biennium;

(F) A description of each tax expenditure; a detailed estimate of the amount of revenues not available to the general revenue fund under existing laws during each fiscal year of the biennium covered by the budget due to the operation of each tax expenditure; and, in comparative form, the amount of revenue not available to the general revenue fund during each fiscal year of the immediately preceding biennium due to the operation of each tax expenditure. The report prepared by the department of taxation pursuant to section 5703.48 of the Revised Code shall be submitted to the general assembly as an appendix to the governor's budget. As used in this division, "tax expenditure" has the same meaning as in section 5703.48 of the Revised Code.

(G) The most recent report prepared by the tax expenditure review committee under division (F) of section 5703.95 of the Revised Code, which shall be submitted to the general assembly as an appendix to the governor's budget.

Sec. 5703.48. (A) As used in this section and section 107.03 of the Revised Code, "tax expenditure" means ~~any~~ a 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~~ levied by the state, including, but not limited to, tax deductions, exemptions, deferrals, exclusions, allowances, credits, reimbursements, and preferential tax rates, provided all of the following apply to the provision:

(1) The provision reduces, or has the potential to reduce, revenue to the general revenue fund;

(2) The persons, income, goods, services, or property exempted by the provision would have been part of a defined tax base;

(3) The persons, income, goods, services, or property exempted by the provision are not subject to an alternate tax levied by the state;

(4) The provision is subject to modification or repeal by an act of the general assembly.

(B) The department of taxation shall prepare and submit to the governor not later than the first day of November in each even-numbered year a report describing the effect of tax expenditures on the general revenue fund. The report shall contain a description of each tax expenditure under existing laws and, in comparative form, a detailed estimate of the approximate amount of revenue not available to the state general revenue fund in each fiscal year of the current and ensuing fiscal bienniums as a result of the operation of each tax expenditure. The report shall be prepared in such a manner as to facilitate the inclusion of the information provided by the report in the governor's budget.

Sec. 5703.95. (A) As used in this section, "tax expenditure" has the same meaning as in section 5703.48 of the Revised Code.

(B) There is hereby created the tax expenditure review committee, consisting of seven members, composed of the following:

(1) Three members of the house of representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives. Members described in division (B)(1) of this section shall not all be members of the same party and should be members of the house of representatives committee that deals primarily with tax legislation;

(2) Three members of the senate appointed by the president of the senate in consultation with the minority leader of the senate. Members described in division (B)(2) of this section shall not all be members of the same party and should be members of the senate committee that deals primarily with tax legislation;

(3) The tax commissioner or the tax commissioner's designee. The member described in division (B)(3) of this section shall be a nonvoting member.

The speaker of the house of representatives and the president of the senate shall make initial appointments to the committee not later than thirty days following the effective date of the enactment of this section. Thereafter, the terms of the office for appointed members shall be the same as the term of each general assembly. Members may be reappointed, provided the member continues to meet all other eligibility requirements. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy before the expiration of the term for which the predecessor was appointed shall hold office as a member for the remainder of that term. Appointed members of the committee serve at the pleasure of the member's appointing authority and may be removed only by the appointing authority.

(C) The tax expenditure review committee shall hold its first meeting within ninety days after the effective date of the enactment of this section. At the first meeting, the members shall elect a chairperson, who shall be one of the members described in division (B)(1) or (2) of this section. Thereafter, the committee shall meet at least once during the first year of each fiscal biennium to review existing tax expenditures pursuant to division (D) of this section, provided the committee shall hold, for any such expenditure, at least one meeting at which a person may present to the committee evidence or testimony related to that expenditure. Any person may submit to the chairperson a request that the committee meet to accept evidence or testimony on a tax expenditure. The committee is a public body for the purposes of section 121.22 of the Revised Code.

The chairperson of the committee shall serve until the thirty-first day of December of each even-numbered year. Thereafter, members shall elect a new chairperson. If the preceding chairperson was a member described in division (B)(1) of this section, the new chairperson shall be a member described in division (B)(2) of this section. If the preceding chairperson was a member described in division (B)(2) of this section, the new chairperson shall be a member described in division (B)(1) of this section.

A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the voting members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the voting members of the committee is necessary for any action to be taken by the committee.

Upon the committee's request, the department of taxation, development services agency, office of budget and management, or other state agency shall provide any information in its possession that the committee requires to perform its duties.

The staff of the legislative service commission shall assist the committee as directed by the committee.

(D) The committee shall establish a schedule for review for each tax expenditure so that each expenditure is reviewed at least once every eight years. The schedule may provide for the review of each tax expenditure in the order the expenditures were enacted or modified, beginning with the least recently enacted or modified tax expenditure. Alternatively, the review schedule may group tax expenditures by the individuals or industries benefiting from the expenditures, the objectives of each expenditure, or the policy rationale of each expenditure. In its review, the committee shall make recommendations as to whether each tax expenditure should be continued without modification, modified, scheduled for further review at a future date to consider repealing the expenditure, or repealed outright. For each expenditure reviewed, the committee may recommend accountability standards for the future review of the expenditure. The committee may consider, when reviewing a tax expenditure, any of the relevant factors described in division

(E) of this section.

(E) In conducting reviews pursuant to division (D) of this section, the committee may consider the following factors:

(1) The number and classes of persons, organizations, businesses, or types of industries that would receive the direct benefit or consequences of the tax expenditure;

(2) The fiscal impact of the tax expenditure on state and local taxing authorities, including any past fiscal effects and expected future fiscal impacts of the tax expenditure in the following eight-year period;

(3) Public policy objectives that might support the tax expenditure. In researching such objectives, the committee may consider the expenditure's legislative history, the tax expenditure's sponsor's intent in proposing the tax expenditure, or the extent to which the tax expenditure encourages or would encourage business growth or relocation into the state, promotes or would promote growth or retention of high-wage jobs in the state, or aids or would aid community stabilization.

(4) Whether the tax expenditure successfully accomplishes any of the objectives identified in division (E)(3) of this section;

(5) Whether the objectives identified in division (E)(3) of this section would or could have been accomplished successfully in the absence of the tax expenditure or with less cost to the state or local governments;

(6) Whether the objectives identified in division (E)(3) of this section could have been accomplished successfully through a program that requires legislative appropriations for funding;

(7) The extent to which the tax expenditure may provide unintended benefits to an individual, organization, or industry other than those the general assembly or sponsor intended or creates an unfair competitive advantage for its recipient with respect to other businesses in the state;

(8) The extent to which terminating the tax expenditure may have negative effects on taxpayers that currently benefit from the tax expenditure;

(9) The extent to which terminating the tax expenditure may have negative or positive effects on the state's employment and economy;

(10) The feasibility of modifying the tax expenditure to provide for adjustment or recapture of the proceeds of the tax expenditure if the objectives of the tax expenditure are not fulfilled by the recipient of the tax expenditure.

(F) The committee shall prepare a report of its determinations under division (D) of this section and, not later than the first day of July of each even-numbered year, submit a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leader of the house of representatives, and the minority leader of the senate. The first report shall be submitted either in the year of the effective date of this section or in the first even-numbered year thereafter. If the committee maintains a web site, the committee shall cause a copy of the report to be posted on the web site in a form enabling access to the report by the public within thirty days after the report is submitted under this division. If the committee does not maintain a web site, the committee shall request that the president of the senate and the speaker of the house of representatives cause the report to be posted on the web site of the general assembly.

(G) Any bill introduced in the house of representatives or the senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification.

Section 2. That existing sections 107.03 and 5703.48 of the Revised Code are hereby repealed.