

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: S.221 Name of Bill: Statutory Purposes for Tax Expenditures

Agency/ Dept: Dept of Taxes Author of Bill Review: Candace Morgan

Date of Bill Review: 05/15/2014 Status of Bill: (check one):

☐ Upon Introduction ☐ As passed by 1st body ☒ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☒ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill puts forth statutory purposes for all existing tax expenditures. The bill also changes the definition of what a tax expenditure is for purposes of reporting; items that we do not have authority to tax will no longer be considered a tax expenditure.

This bill drew some attention as the House and Senate went back and forth over whether to exempt college fraternities and sororities from property taxes. Ultimately, they settled on allowing their exemption to remain until July 1, 2017 and also provided stipulation that if a fraternity or sorority loses its charter from the affiliated national organization, the fraternity or sorority is automatically and immediately ineligible for the exemption.

2. Is there a need for this bill? *Please explain why or why not.*

In 2013, Act 73 called for the creation of statutory purposes for all tax expenditures. If a purpose was not defined, the Department would cease to administer the expenditure. This bill satisfies the need of defining the purposes for expenditures the legislature intends to keep in existence.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

For the Department, the greatest changes are those made to the tax expenditure report, produced biennially with JFO. This bill expands the definition of a tax expenditure to also include "preferential rate, or deferral of liability." The bill also narrows the definition by removing any revenue outside the taxing power of the State, provisions outside the normal structure of a particular tax, or taxed under an alternative tax structure, revenue forgone as unduly burdensome to administer, and any governmental revenue.

The tax expenditure report must also include the statutory purpose explaining the policy goal behind the expenditure as well as a compilation of the items excluded.

Two expenditures are repealed: tax exemption on sales of building materials in excess of \$250,000.00 and a limitation of tax on telecommunications services.

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4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

No implications for other Departments. The tax exemption on sales of building materials in excess of \$250,000.00 never went into effect – the exemption was never used. Some tax expenditures may come under closer scrutiny now that there are purposes associated with them. The legislature, in their discussions, expressed a desire to move towards defining results of certain expenditures. The defining of purposes is one step towards that goal. As they move forward, more data may be requested of various departments and stakeholders to evaluate the effectiveness of an expenditure.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

Fraternities and sororities are likely more satisfied with this language than with the language striking their exemption outright. However, they are likely less than happy with the idea of losing their exemption in 3 years.

6. Other Stakeholders:

As noted above, this bill gained a level of publicity due to the discussions surrounding the fraternities and sororities exemption. There may be some pushback from these groups around the sunseting of their exemption in 2017.

7. Rationale for recommendation: Act 73 of 2013 required a statutory purpose for all expenditures. Without a stated statutory purpose, the expenditure would expire.

8. Specific modifications that would be needed to recommend support of this bill: None.

Secretary/Commissioner has reviewed this document: Maribeth Spellman (for Commissioner) Date: 5/19/14