



# Ohio Legislative Service Commission

## Bill Analysis

Sam Benham

### H.B. 65

131st General Assembly  
(As Introduced)

**Reps.** Driehaus, Ramos, Cera, Antonio, Lepore-Hagan, Leland, Phillips, Blessing, Reece, Curtin, K. Smith, Fedor, Celebrezze

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## BILL SUMMARY

- Creates a permanent joint legislative committee of four legislators, one gubernatorial appointee, and two agency heads to biennially review existing and newly enacted "tax expenditures."
- Requires the Committee to make recommendations to the Governor and the General Assembly as to the effectiveness of each tax expenditure and whether an expenditure should be discontinued.
- Requires the Tax Commissioner, Legislative Service Commission, and other agencies to provide information and assistance to the Committee.
- Requires any act creating a new tax expenditure to include information about the expenditure, such as its purpose and the class of taxpayers it will benefit.

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## CONTENT AND OPERATION

### Tax Expenditure Review Committee

The bill creates a permanent committee – composed of four legislators, one gubernatorial appointee, and two agency heads – to review every existing and newly enacted tax expenditure once every two years. The Committee is named the Tax Expenditure Review Committee.

#### "Tax expenditure"

The bill adopts existing law's definition of "tax expenditure," which currently is used to define the content of the Department of Taxation's Tax Expenditure Report that

accompanies the Governor's proposed biennial operating budget. Under that definition, a tax expenditure is "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, but not limited to, tax deductions, exemptions, deferrals, exclusions, allowances, credits, reimbursements, and preferential tax rates."<sup>1</sup> According to the most recently issued Tax Expenditure Report, there are currently 128 tax expenditures.

### **Committee duties**

The Tax Expenditure Review Committee is required to establish a schedule for reviewing each tax expenditure once every two years. The Committee is required to divide in half all the tax expenditures existing on April 15, 2015, pursuant to a list of such expenditures furnished by the Tax Commissioner, reviewing one-half in 2016 and every subsequent even-numbered year and the other half in 2017 and every subsequent odd-numbered year.<sup>2</sup>

The Committee is also required to review each tax expenditure enacted in an odd- or even-numbered year after April 15, 2015, in every subsequent odd- or even-numbered year, respectively.<sup>3</sup>

### **Review process**

In the process of reviewing each expenditure, the Committee must hold at least one public hearing on each tax expenditure scheduled for review in that year, during which the Committee must allow persons to present testimony or evidence related to that tax expenditure. The Tax Commissioner is required to publish advance notice of those hearings in the *Register of Ohio*.<sup>4</sup>

In advance of these hearings, the Commissioner or any other official responsible for administering a tax expenditure, e.g. the Director of Development Services, is required to furnish the Committee with the following information about the expenditure:

- (1) The expenditure's purpose;
- (2) The official's opinion as to the public need for the expenditure;

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<sup>1</sup> R.C. 5703.48, not in the bill.

<sup>2</sup> R.C. 5703.95(B); Section 2.

<sup>3</sup> R.C. 5703.95(B).

<sup>4</sup> R.C. 5705.951(A).

(3) The official's opinion whether the expenditure's effectiveness is impeded or enhanced by existing statutes;

(4) How, if at all, the expenditure promotes economic growth and development;

(5) An estimate of the revenue forgone each fiscal year as a result of the expenditure;

(6) The official's opinion whether the tax expenditure should be discontinued;

(7) Any other information relevant to the Committee's review.<sup>5</sup>

After the hearing, the bill requires the Committee to review each tax expenditure. In doing so, the Committee is required to consider the information submitted by state officials, as well as information furnished to the Committee by the Legislative Service Commission (LSC). The Committee may request additional information that would assist in the Committee's review from state agencies, and those agencies are required to furnish requested information.<sup>6</sup>

## **Report**

The Committee is required to issue to the Governor and each member of the General Assembly a report by November 1 of each year, beginning in 2016, containing the following information related to each reviewed tax expenditure:

(1) The expenditure's purpose;

(2) The effectiveness of the expenditure;

(3) Whether the expenditure serves a public need;

(4) Whether the expenditure's effectiveness is impeded or enhanced by existing statutes;

(5) Whether the expenditure promotes economic growth and development;

(6) An estimate of the revenue forgone each fiscal year as a result of the expenditure;

(7) The Committee's recommendation whether the tax expenditure should be discontinued;

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<sup>5</sup> R.C. 5703.951(B).

<sup>6</sup> R.C. 5703.951(D).



(8) Any other relevant information.

In addition to the information required above, the report may include drafts of proposed bills that would discontinue or improve the effectiveness of reviewed tax expenditures. The report is subject to disclosure under Ohio's Public Records Law.<sup>7</sup>

### **LSC tax expenditure report**

The bill requires LSC to annually submit to the Committee, beginning in 2016, a report describing each existing tax expenditure's purpose and, if the legislation creating the expenditure prescribed standards to evaluate its effectiveness, evaluating whether the expenditure meets those standards.<sup>8</sup>

### **Committee membership and administration**

The Committee's membership, administration, and other procedural matters are outlined in the table below.<sup>9</sup>

<b>Voting Committee members</b>	One member, appointed by the Governor and subject to the advice and consent of the Senate.  Two members of the House of Representatives, one from each political party, appointed by the Speaker of the House.  Two members of the Senate, one from each political party, appointed by the President of the Senate.
<b>Nonvoting, <i>ex-officio</i> Committee members</b>	The Tax Commissioner and the Director of Budget and Management, or their designees.
<b>Approval of appointees</b>	The Governor's appointment is subject to the advice and consent of the Senate.
<b>Committee member compensation</b>	No compensation.
<b>Reimbursement for expenses</b>	Yes – if incurred for actual and necessary expenses of performing committee duties.
<b>Initial appointment deadline</b>	Initial appointments must be made not later than 30 days after the bill's effective date.

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<sup>7</sup> R.C. 5703.952; Section 2.

<sup>8</sup> R.C. 5703.951(C).

<sup>9</sup> R.C. 5703.951(D) and 5703.954; Section 3.



<b>Initial term of office</b>	<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, 2013.</p>
<b>Standard appointment deadline</b>	<p>Appointments for all members must be made within 15 days after the first day of the first regular session of the General Assembly.</p>
<b>Standard term of office</b>	<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 31 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>
<b>Filling of vacancies</b>	<p>In the same manner as the original appointment.</p>
<b>Term of office for members appointed to fill a vacancy</b>	<p>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.</p>
<b>Selection of Committee chairperson and vice-chairperson</b>	<p>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.</p> <p>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.</p>
<b>Frequency of Committee meetings</b>	<p>As often as necessary to perform the Committee's duties.</p>
<b>Quorum and voting requirements</b>	<p>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.</p> <p>No action may be taken by the Committee without the concurrence of at least three voting members.</p>
<b>Clerical assistance</b>	<p>LSC provides drafting and clerical support to the Committee.</p>



## Proposed tax expenditures

The bill requires any act of the General Assembly that creates a new tax expenditure to state each of the following:

- (1) The expenditure's purpose;
- (2) Whether the expenditure is to be reviewed in an odd- or even-number year (see "**Committee duties**," above);
- (3) The class of taxpayers that will benefit from the expenditure;
- (4) Methods to be used to evaluate the expenditure's effectiveness in serving its purpose.<sup>10</sup>

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## HISTORY

ACTION	DATE
Introduced	02-12-15

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<sup>10</sup> R.C. 5703.953.

