LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **SB 330** SLS 09RS 496

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 26, 2009 9:40 AM **Author:** RISER

Dept./Agy.: Economic Development

Subject: Film Production & Infrastructure Tax Credit Program **Analyst:** Greg Albrecht

TAX/TAXATION OR -$10,000,000 GF RV See Note

Provides with regard to the motion picture investor tax credit. (8/15/09)

The bill makes numerous, potentially significant, changes to the film production and film infrastructure tax credit programs. Proposed law retains the current 25% investor credit permanently, rather than allowing the credit to phase down to 20% in FY11 and then 15% in FY12 and beyond.
Proposed law provides that a infrastructure projects pre-certified on or before August 1, 2007 are eligible to receive tax credits on the amounts pre-certified and have five years to make expenditures. Projects pre-certified after August 1, 2007 but before January 1, 2009 must spend 25% of the project before credits can be issued.

Proposed law appears to expand expenditures eligible for production tax credits. Removes the Department of Economic Development from administration of infrastructure program. Makes various changes to the multi-purpose requirements of the infrastructure program. Makes various other changes to the programs.

EXPENDITURES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	2009-10	2010-11	2011-12	2012-13	2013-14	5 -YEAR TOTAL
State Gen. Fd.	$0	($10,000,000)	($20,000,000)	($30,000,000)	($40,000,000)	**($100,000,000)**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**($10,000,000)**	**($20,000,000)**	**($30,000,000)**	**($40,000,000)**	**($100,000,000)**

EXPENDITURE EXPLANATION

While the bill changes administration of the infrastructure program from the Department of Economic Development (LED) to the Division of Administration, LED has indicated, with regard to other similar bills, the need for 2 additional staff positions and $150,000 per year of costs to administer an extended infrastructure credit program. This presumes a jump in activity from the 23 projects DED indicates are potentially affected by the bill. Should program activity increase materially, additional resources within the Division of Administration may be warranted.

REVENUE EXPLANATION

Film Production Tax Credit Rate Changes: For the past two fiscal years (FY07 & FY08) investor credits realized against state tax liabilities averaged $100.8 million per year, reflecting the current 25% credit rate. Under current law, productions approved after July 1, 2010 would generate credits at a 20% credit rate. Assuming a $100 million per year credit baseline, at the earliest, FY11 is when current law is expected to reduce program tax credit costs. At most credits would be $20 million less in FY11 and a like amount in FY12. After that, from FY13 and subsequent years credit costs would be reduced again by another $20 million ($40 million total annual drop from the current credit baseline). However, it is likely that a large number of projects will apply for approval at the higher current credit rates as the dates for phasing down the credit approach (observed as the date approached for changing from total spending to in-state spending as the basis of generating credits in an earlier revision of the program). In addition, it appears to take roughly two years on average for issuance of a credit to realization of the credit against tax liabilities. Thus, it seems likely that the current law scheduled credit phase-down will reduce credit realizations by no more than $10 million in FY11, then $20 million in FY12, then $30 million in FY13, and $40 million in FY14 and each year beyond. Consequently, these are the amounts this bill will add back to annual program credit realizations.
Film Infrastructure Tax Credit Changes: According to the Department of Economic Development (DED), there are 23 project applications that could conceivably fall under the provisions of this bill. These projects reported total estimated budgets of $3.1 billion, with associated 40% tax credits of $1.24 billion. Presumably, this represents the State's total revenue loss exposure from this bill should all of these projects meet the conditions established by this bill. While it is possible that this bill would allow some of these projects to proceed when they might not otherwise have done so, information as of December 2008 indicated that, eleven of these projects, in total, had reported only $44.6 million of expenditures and $17.7 million of tax credits. It seems unlikely that all of this revenue loss exposure would be realized by the State. It should be noted though, that the state revenue forecast anticipates only revenue losses consistent with current program realization levels as they are exhibited in actual tax collections performance. Given activity levels reported by DED through December 2008, though, it seems likely that the current revenue forecast anticipates only fairly small credit realizations.

Only an estimate of changes to the film production tax credit are displayed in the table above. **Continued on page 2.**

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☐ 13.5.1 >= $500,000 Annual Fiscal Cost

☒ 13.5.2 >= $500,000 Annual Tax or Fee Change

☐ 6.8(F) >= $500,000 Annual Fiscal Cost

☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease

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CONTINUED EXPLANATION from page one:

Film Production Tax Credit Rate Changes:
Note that the fiscal note, with regard to changes in the film production tax credit, essentially assumes that the current baseline of production activity, credit issuance, and credit realizations will continue even as the current law scheduled credit phase-down occurs. In light of the mobile nature of production activity and the competitive subsidies offered in other states, it is reasonable to question whether that level of baseline activity will continue. If it does not, there would be a smaller amount of credit reduction to occur under current law and a smaller amount of credit increase for this bill to add back. However, it is also reasonable to consider that Louisiana has developed considerable expertise, skill sets, and infrastructure geared to supporting the film production industry, even with a lower credit subsidy offered. These factors may be advantageous enough to maintain much of the existing baseline activity level, and works to support the fiscal note estimates above.

Film Infrastructure Tax Credit Rate Changes:
However, should any particular project proceed as a result of this bill, additional state revenue loss exposure will be generated, as would revenue loss realization when tax credits are ultimately presented against state tax liabilities. This potential exposure and eventual realization would likely be spread over fiscal years as credits can be issued and realized over a structured period of time. It should be noted though, that the state revenue forecast anticipates only revenue losses consistent with current program realization levels as they are exhibited in actual tax collections performance. These actual realization levels are still unknown. Tax year 2008 is the first year for which a specific identification of this credit's claims is incorporated onto tax forms. Given activity levels reported by DED through December 2008, though, it seems likely that the current revenue forecast anticipates only fairly small credit realizations.

Small additions to the program's credit issuance total, or even larger total additions spread out over a number of years, might be reasonably anticipated in the current revenue forecast, but large additions would not reasonably be anticipated and would result in revenue losses beyond those already likely to occur.

Other Provisions:
The bill makes a number of other changes to these two programs. Changes to the definitions of "expended in the state", "production expenditures", and "state-certified infrastructure project" appear to expand the expenditures that would be eligible for generating tax credits, resulting in a greater state revenue loss exposure from the programs. The fiscal significance of provisions relating to multi-purpose facilities and to moving participating facilities is unclear.

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