DIGEST

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HB 562 Reengrossed | 2023 Regular Session | Schexnayder

Abstract: Extends the sunset of the motion picture production tax credit from July 1, 2025, to July 1, 2035, and makes changes to the administration of the credit.

Present law authorizes the following tax credits for state-certified productions:

(1) A 25% tax credit if the base investment is in excess of $300,000 or if the production is a La. screenplay production.

(2) An additional 5% base investment credit for projects filmed outside the New Orleans Metro Zone, but not including St. John the Baptist Parish.

(3) An additional 10% base investment credit for certain expenditures equal to or greater than $50,000 but less than $5 million for projects meeting certain La. screenplay criteria.

(4) A 15% credit for La. resident payroll expenditures.

(5) A 5% credit for certain La.-based visual effects expenditures meeting certain requirements.

Proposed law retains present law.

Present law defines a "La. promotional graphic" as a graphical brand or logo for promotion of the state that has been approved by the office of entertainment industry development in the Dept. of Economic Development (DED), hereinafter "office", and requires productions to acknowledge the financial assistance of the state, either through the inclusion of a La. promotional graphic or an alternative marketing option approved by the office.

Proposed law removes the alternative marketing option for productions submitting an application on or after July 1, 2023.

Proposed law expands the definition of "La. promotional graphic" to include an electronic press kit or a customized video for use by the office or an alternative asset as determined by the office *and* either of the following:

(1) Up to a five-second long static or animated graphic that promotes La. in the end credits before the below-the-line crew crawl for the life of the production.

(2) Up to a five-second long static or animated embedded graphic that promotes La. during each broadcast worldwide, in the end credits before the below-the-line crew crawl for the life of the production.

Present law provides for a cap of $150M in any fiscal year on tax credits that may be granted in a final certification letter by DED for state-certified productions and qualified entertainment companies (QEC) submitted on or after July 1, 2017. If the total amount of credits applied for in a year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Present law reserves 20% of the annual program cap as follows: 5% for qualified entertainment companies, 5% for La. screenplay productions, and 10% for independent film productions.

Proposed law retains present law with respect to the $150M DED program issuance cap but repeals the reservation of tax credits in present law for state-certified productions and QEC applications submitted on or after July 1, 2023.

Present law provides for establishment of the La. Entertainment Development Dedicated Fund Account for deposit of fees collected by the Dept. of Revenue (DOR) pursuant to notifications of transfer of tax credits. Present law requires 25% of the monies in the account to be appropriated to DOR for administrative purposes and 75% of the monies to be appropriated to the office for education development initiatives, matching grants for La. filmmakers, a loan guarantee program, and a deal closing fund.

Proposed law retains present law but changes the use of the monies in the account appropriated to the office by eliminating the loan guarantee program and a deal closing fund and including La. workforce development programs, and other motion picture and television related programs as determined by rule.

Present law allows a motion picture production company or the company's irrevocable designee to transfer the company's credits to DOR for 90% of the face value of the credits.

Proposed law prohibits a bank or lender from being named an irrevocable designee beginning July 1, 2023, and removes the company's ability to transfer a credit to an irrevocable designee as of the same date.

Proposed law reduces the percentage of the face value of the credit that a production company can transfer to the Dept. of Revenue for payment by 7.5% each year through July 1, 2034, at which point the company may not transfer any credits to DOR.

Proposed law prohibits a motion picture production company from earning a credit if the company has failed to file federal, state, or local taxes, has failed to pay any taxes due, or owns any property in La. that is subject to a lien.

Present law requires DED to engage an independent certified public accountant to prepare a production expenditure verification report on a tax credit applicant's cost report of expenditures or claims. Present law further requires the applicant to make all records available to the CPA.

Proposed law requires the records to include a listing of all La. expenditures detailing the date of the expenditure, the vendor's address including the zip code, and the amount of the expenditure for applications received on or after July 1, 2023.

Present law requires DED to submit an initial certification or written denial of a project as a state-certified production to investors and the secretary of DOR within 60 days of receipt of required information. Further requires the initial certification to include a primary allocation of tax credits by year.

Proposed law retains present law with respect to submission of an initial certification or written denial but repeals present law provisions with respect to inclusion of a primary allocation of tax credits by year in an initial certification.

Present law prohibits motion picture production tax credits from being allowed for applications received on or after July 1, 2025.

Proposed law extends the sunset of this tax credit from July 1, 2025, to July 1, 2035.

Proposed law requires DED to develop a new La. promotional graphic and submit it to the Joint Legislative Committee on the Budget for approval no later than Nov. 1, 2023.

(Amends R.S. 47:6007(B)(11), (C)(1)(a)(iv) and (4)(f)(i)(bb) and (iii) and (h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1); Adds R.S. 47:6007(C)(4)(f)(i)(dd) and (8) and (K))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Expand the definition of a "Louisiana promotional graphic".

2. Remove provision that would have eliminated the alternative marketing option for productions submitting an application on or after July 1, 2023.

3. Remove provision that would have eliminated the $150M Dept. of Economic Development program issuance cap.

4. Add provision that specifies that the 20% allotment of the $150M Dept. of Economic Development program issuance cap in present law reserved for qualified entertainment companies (QEC), La. screenplay productions, and independent film productions shall not apply to state-certified productions and QEC applications submitted on or after July 1, 2023.

5. Delete the repeal of the sunset provision of this tax credit in favor of extending the sunset from July 1, 2025, to July 1, 2035.

The House Floor Amendments to the engrossed bill:

1. Restore the provision eliminating the alternative marketing option for productions submitting an application on or after July 1, 2023.

2. Reduce the percentage of the face value of the credit that a production company can transfer to the Dept. of Revenue for payment by 7.5% each year over the next 12 years.

3. Prohibit a bank or other lender from being named as an irrevocable designee for the tax credit beginning July 1, 2023.

4. Prohibit a motion picture production company from receiving a credit if the company is delinquent on any federal, state, or local taxes or has a lien against any property in La.

5. Require the Dept. of Economic Development to develop a new promotional graphic and submit it to the Joint Legislative Committee on the Budget for approval no later than Nov. 1, 2023.