DIGEST

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HB 829 Engrossed 2015 Regular Session Robideaux

Abstract: Defines "above the line services" for purposes of qualifying for the motion picture investor tax credit; adds an annual cap for the program and a cap per project; and increases the amount of the state buyback from 85% to 90% of face value of the credit.

Present law provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production. The amount of the credit is equal to 30% of the base investment made by the investor if the total base investment is more than $300,000. Additionally provides for a credit equal to 5% of base investment expended on payroll for La. residents employed in connection with a state-certified production. However, this credit does not apply to the payroll of any one person that exceeds $1 million. Present law further provides that the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

Proposed law changes present law by providing that tax credits shall be earned at the time expenditures are certified rather than the time the expenditures are made and that the credits shall be allowed against income tax for the taxable period in which the credit is certified. Additionally, increases the amount of the tax credit for expenditures on payroll for La. residents from 5% to 10% and deletes the limitation of excluding the salary of any person that exceeds $1 million.

Proposed law caps the maximum amount of credits which may be certified annually for the program by the office and the secretary at $226.4 million and beginning July 1, 2015, caps the amount of credits available for any single state-certified production at $30 million. Additionally provides that if the total amount of credits certified for a year exceeds the maximum amount of credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Proposed law adds credits for the following:

(1) If the total base investment is greater than $50,000 but less than $300,000, each state certified production which has a director who can prove La. residency for a minimum of two years, shall be allowed a credit of 30% of the total base investment made by that investor. However, a condition for earning this tax credit includes a requirement that no less than 75% of the total amount of the applicant's expenditures for above the line services shall be expended on La. residents and that 75% or more of the total number of jobs in the production shall be filled by La. residents. Failure to comply with these requirements shall void the

certification and no tax credits shall be earned by the applicant.

(2) If the total base investment is greater than $300,000 and the state certified production is based on a screenplay, the copyright or the right of use of the copyright of which, is owned by a La. resident, a La. resident company, or a La. company with its principal place of business in the state, each investor shall be allowed an additional tax credit of 15% of the base investment.

(3) To the extent that the base investment is expended on music, the sound recording copyright or musical copyright of which, is owned in whole or in part at no less than 25% by a La. resident or a La. company headquartered in the state with a majority ownership of La. residents, each investor shall be allowed an additional tax credit of 15% of the base investment.

Proposed law defines "above the line (ATL) services" for purposes of defining expenditures eligible for the credit as services of a producer, executive producer, line producer, co-producer, assistant producer, actor, director, casting director, screenwriter, and other services performed by personnel of the production that are associated with the creative or financial control of a production and customarily considered above the line services in the film and television industry.

Proposed law defines a "Louisiana resident company" as a company licensed to conduct business in this state owned 100% by a natural person who is a legal resident and who has been domiciled in this state and has maintained a permanent home in this state for no less than 12 consecutive months. A Louisiana resident company is required to file a La. income tax return and maintain a physical location in the state.

Proposed law defines "principal place of business" as the state where the administrative or management activities of a business are conducted. A company claiming that its principal place of business is in La. shall not have any fixed locations outside of this state in which administrative or management activities are conducted, and the company shall be required to maintain a physical location in the state. Furthermore, the company shall be licensed to conduct business in this state, shall be required to file a La. income tax return, and shall employ a minimum of three full-time employees in this state.

Present law defines a "motion picture" to include nationally or internationally distributed feature-length film, video, television pilot, and television series made in La. The term "motion picture" shall not include the production of television coverage of news and athletic events.

Proposed law expands a "motion picture" to include animated short films, and documentaries made in La. for any online digital platform viewing approved by the office.

Present law defines "production expenditures" to include preproduction, production, and postproduction expenditures in this state directly relating to a state-certified production. However, this term does not include expenditures for marketing and distribution.

Proposed law changes present law by adding eligibility for marketing and promotion expenses of the state-certified production; however, the amount of these expenses eligible for tax credits shall not exceed 15% of the total state certified tax credits for the production.

Present law authorizes investors who earned tax credits to transfer the credits to the office for 85% percent of the face value of the credits.

Proposed law changes present law by increasing the amount of the face value for which the investor can transfer a credit back to the state from 85% to 90%.

Present law requires an application fee to be submitted with a tax credit application. The amount of the fee shall be based on two-tenths of 1% multiplied by the estimated total of the credit. The minimum amount of the fee shall be $200 and the maximum amount of the fee shall be $5,000. Further requires the application fee to be deposited into the Entertainment Promotion and Marketing Fund to be used solely for promotion and marketing of entertainment industry in this state.

Proposed law changes present law by providing that the monies deposited into the Entertainment Promotion and Marketing Fund can be used for costs associated with the administration of the motion picture investor tax credit program.

Effective July 1, 2015.

(Amends R.S. 47:6007(B), (C)(1)(intro. para.), (c) and (d), (2) and (4)(f)(ii), (D)(4)(ii)(aa); Adds R.S. 47:6007(C)(1)(e))

Summary of Amendments Adopted by House

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

1. Delete from the definition of "motion picture" to which tax credits may be earned "shows" and reinstates present law to include "series".

2. Increase the cap for any single state-certified production from $20 million to $30 million.

3. Remove the increase in tax credit application fees.