

Regular Session, 2013

HOUSE BILL NO. 283

BY REPRESENTATIVE LEGER

TAX CREDITS: Provides relative to tax credits for state-certified musical or theatrical productions and state-certified infrastructure projects

1 AN ACT
2 To amend and reenact R.S. 47:6034(A), (B)(3), (5), (7)(a), (9), and (10)(a),
3 (C)(1)(introductory paragraph), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff), relative
4 to income tax credits; to provide relative to tax credits for state-certified musical or
5 theatrical productions and state-certified infrastructure projects; to provide relative
6 to the tax credit for certain payroll; to provide relative to certain definitions; to
7 extend issuance of the tax credit for certain state-certified infrastructure projects; to
8 provide for certain requirements; to provide relative to the application for such tax
9 credits and certification of productions and projects; to provide for an effective date;
10 and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:6034(A), (B)(3), (5), (7)(a), (9), and (10)(a), (C)(1)(introductory
13 paragraph), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff) are hereby amended and reenacted
14 to read as follows:

15 §6034. Musical and theatrical production income tax credit

16 A. Purpose. It is the intention of the legislature in creating these five
17 different types of tax credits: a credit for qualified production expenditures made
18 from investments in a state-certified musical or theatrical production; a credit for the
19 construction, repair, or renovation of facilities related to such productions and
20 performances; a credit for qualified transportation costs for performance-related

1 property; a credit for the payroll of Louisiana residents employed in connection with
 2 a state-certified musical or theatrical production; and a credit for employing college,
 3 university, and vocational-technical students employed in connection with a state-
 4 certified musical or theatrical production, to establish and promote Louisiana as one
 5 of the primary places in the United States in which live performances, from creation
 6 to presentation are present and thriving. The live performance industry will enhance
 7 economic development because it fits well with the state's reputation as a tourist
 8 destination, will offer numerous and varied employment opportunities, and in
 9 conjunction with the available federal and state incentives, will be an attraction for
 10 new and relocating businesses and will provide for the reinventing of countless
 11 abandoned properties as either performance or rehearsal spaces. The live
 12 performance industry will also spur educational development: Louisiana colleges,
 13 universities, and vocational-technical schools will be able to offer talented
 14 undergraduate and graduate students from this state, other states, and around the
 15 world a real-world opportunity to participate in degree programs across the state that
 16 work on the various productions in accounting, law, management, and marketing and
 17 to fill arts-related positions such as actors, writers, producers, stagehands, and
 18 directors, as well as technicians working on all aspects of the production such as
 19 lighting, sound, and actual stage production and operations. In addition, Louisiana
 20 has the opportunity to centralize much of the concert touring industry by serving as
 21 a place where artists, performers, technicians, crew, vendors, and other service
 22 providers are welcome and encouraged to do business.

B. Definitions. For the purposes of this Section:

* * *

25 (3) "Expended in the state" or "expenditures in the state" means an
 26 expenditure to acquire or lease immovable property located in the state, an
 27 expenditure to acquire movable property from a source within the state which is
 28 subject to state sales and use tax, or an expenditure as compensation for services
 29 performed within the state which is subject to state income tax. A transaction that

1 (a)(i)(aa) A base investment credit ~~may~~ shall be granted for certified,
2 verified, and approved production expenditures for a state-certified musical or
3 theatrical production, or for investments made by a company or a financier in such
4 production which are, in turn, expended for such production expenditures.

5 (bb) The initial certification shall be effective for a period of twelve months
6 prior to and twelve months after the date of initial certification.

7 (ii)(aa) Until January 1, ~~2014~~ 2022, a base investment credit may be granted
8 for ~~certified, verified, and approved~~ expenditures in the state for the creation,
9 development, acquisition, construction, repair, or renovation of a state-certified
10 musical or theatrical facility infrastructure project, or for investments made by a
11 company or a financier in such infrastructure project which are, in turn, expended for
12 such construction, repair, or renovation, not to exceed ten million dollars per state-
13 certified infrastructure project, under conditions provided for in this Item. No more
14 than sixty million dollars in tax credits under this Section shall be granted for
15 infrastructure projects per year. If twenty-five percent of the total base investment
16 provided for in the initial certification of a state-certified musical or theatrical facility
17 infrastructure project has been expended prior to January 1, 2022, then the state-
18 certified musical or theatrical facility infrastructure project shall continue to earn
19 base investment credits as funds are expended until such time as all of the funds
20 provided for in the initial certification have been expended.

21 (bb) If all or a portion of an infrastructure project is a facility which may be
22 used for other purposes not directly related to the production or performance of
23 musical or theatrical production activities, then the project shall be approved only if
24 a determination is made that the multiple-use facility will support and will be
25 necessary to secure musical or theatrical production activities for the musical or
26 theatrical production or performance facility and the applicant provides sufficient
27 contractual assurances that:

1 (I) The facility will be used for the production or performance of musical or
2 theatrical production activities, or as a support and component thereof, for the useful
3 life of the facility.

4 (II) No tax credits shall be earned on such multiple-use facilities until the
5 facility directly used in musical or theatrical productions or performances is
6 complete.

7 (cc) Tax credits for infrastructure projects shall be earned only as follows:

8 (I) Construction, creation, development, or acquisition of the infrastructure
9 project shall begin within six months of the initial certification provided for in
10 Subparagraph (E)(1)(d) of this Section.

11 (II) Expenditures shall be certified, verified, and approved as provided for
12 in this Section, ~~and credits are not earned until such certification.~~

13 (III) ~~Twenty-five~~ No credits shall be issued until twenty-five percent of the
14 total base investment provided for in the initial certification of an infrastructure
15 project pursuant to Subparagraph (E)(1)(d) of this Section ~~shall be certified, verified,~~
16 ~~and approved as expended before any credits may be earned~~ has been expended.

17 (IV) No tax credit shall be allowed for expenditures made for any
18 infrastructure project two years after its initial certification pursuant to Subparagraph
19 (E)(1)(d) of this Section, unless fifty percent of total base investment provided for
20 in the initial certification of the project pursuant to such Subparagraph has been
21 expended prior to that time. The expenditures may be finally certified at a later date.

22 ~~(dd) The initial certification may require the tax credits to be taken and/or~~
23 ~~transferred in the tax period in which the credit is earned or the tax credits may be~~
24 ~~structured in the initial certification of the project to provide that only a portion of~~
25 ~~the tax credit be taken over the course of two or more tax years.~~

26 (iii) Except as limited for state-certified infrastructure projects as provided
27 for in this Subparagraph, the base investment credit shall be for the following
28 amounts:

1 (aa) If the total base investment is greater than one hundred thousand dollars
2 and less than or equal to three hundred thousand dollars, a company shall be allowed
3 a tax credit of ten percent of the base investment made by that company.

4 (bb) If the total base investment is greater than three hundred thousand
5 dollars and less than or equal to one million dollars, a company shall be allowed a
6 tax credit of twenty percent of the base investment made by that company.

7 (cc) If the total base investment is greater than one million dollars, a
8 company shall be allowed a tax credit of twenty-five percent of the base investment
9 made by that company.

10 * * *

11 (d) To the extent that base investment is expended on payroll for Louisiana
12 residents employed in connection with a state-certified musical or theatrical
13 production, except for the students provided for in Subparagraph (c) of this
14 Paragraph, or the creation, development, acquisition, or construction of a state-
15 certified musical or theatrical facility infrastructure project, a company shall be
16 allowed an additional tax credit of ten percent of such payroll; however, if the
17 amount paid to any one person exceeds one million dollars, the additional credit shall
18 not include any amount paid to that person that exceeds one million dollars.

19 * * *

20 E. Certification and administration:

21 (1)

22 * * *

23 (c) When determining which musical or theatrical productions or musical or
24 theatrical facility infrastructure projects qualify for certification, the Department of
25 Economic Development shall take the following factors into consideration:

26 (i) The contribution of the production or infrastructure project to establishing
27 the state as a leader in the live performance industry or as a central base of vendor
28 operations for the industry.

29 * * *

Present law requires construction of the infrastructure project to begin within six months of the initial certification of the project and that 25% of the total base investment in the initial certification be certified, verified, and approved as expended before any credits are earned. Further provides that credits are not earned until expenditures are certified.

Proposed law changes present law to require that construction, creation, development, or acquisition of the project begin within six months of initial certification and to provide that no credits shall be issued until 25% of the total base investment in the initial certification of an infrastructure project has been expended. Deletes provision that credits are not earned until expenditures are certified.

Present law provides that the initial certification may require the tax credits to be taken or transferred in the tax period in which the credit is earned or the tax credits may be structured in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years.

Proposed law deletes present law.

Present law provides for an additional tax credit of 10% of payroll expended for La. residents employed in connection with a state-certified musical or theatrical production, excluding payroll for certain students, or the construction of a state-certified infrastructure project; however, the additional credit shall not include any amount paid to any one person that exceeds \$1 million.

Proposed law retains present law but extends the additional tax credit to payroll for La. residents employed for the creation, development, or acquisition of state-certified infrastructure projects.

Present law defines "expended in the state" as an expenditure to acquire or lease immovable property located in the state, an expenditure to acquire movable property from a source within the state subject to state sales and use tax, or an expenditure as compensation for services performed within the state subject to state income tax.

Proposed law retains present law but adds that a transaction that is subject to state sales and use tax shall include transactions which are also subject to a statutory exclusion or exemption.

Present law defines a "musical or theatrical production" as the producing, rehearsing, marketing, administration, recording, performing, and/or filming of a live musical or theatrical performance in the state before live audiences, whether or not there is a charge for admission. Such performances include drama, comedy, comedy revue, opera, ballet, jazz, cabaret, and variety entertainment.

Proposed law removes the requirement that such performance be in this state and expands the definition of "musical or theatrical production" to include the servicing of a musical or theatrical performance before a live audience. Also includes concerts, multistate and multinational concert tours to the performances that qualify as "musical or theatrical productions".

Present law defines "production expenditures" as a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified musical or theatrical production.

Proposed law retains present law but adds transportation and finance to the list of expenditures which qualify as "production expenditures". Further adds provisions for determining the portion of an artist or performer's compensation which constitutes production expenditures and provisions for the determination of the proportion of the guaranteed compensation that constitutes a qualifying production expenditure.

Present law defines a "state-certified infrastructure project" as a capital infrastructure project in the state directly related to the production or performance of musical or theatrical productions and related property and equipment, any facility which supports and is a necessary component of such facility, and any certified expenditures in the state related to the construction, repair, or renovation of such project.

Proposed law retains present law but expands the definition to include the servicing of musical or theatrical productions. Further provides that a state-certified infrastructure project shall include the creation, development, or acquisition of vendor operations designed to service musical or theatrical productions, regardless if such productions are in-state, multistate, or multinational productions, from a base of operations within La.

Present law defines a "state-certified musical or theatrical production" as a musical or theatrical production, or a series of productions occurring over a 12-month period, and the recording or filming of such production, which originate, are developed, or have their initial public performance before an audience within La., or which debut within La., and the production expenditures, payroll expenditures for residents, transportation expenditures, and expenditures for employing college and vocational-technical students related to such production or productions.

Proposed law retains present law but expands the definition of "state-certified musical or theatrical production" to include concerts and multistate and multinational concert tours.

Present law requires the secretary of the Dept. of Economic Development (DED) to determine which musical or theatrical productions and which infrastructure projects shall be certified pursuant to the provisions of present law.

Proposed law retains present law but adds to the list of factors the department should consider when determining which productions and infrastructure projects are certified the contribution of the production or infrastructure project in establishing the state as a central base of vendor operations for the industry.

Present law requires a tax credit applicant to submit an application for initial certification to DED that includes the estimated dates for start and completion of rehearsals before paid performances and the estimated dates of performances in the state.

Proposed law retains present law but requires the application to include estimated start and completion of rehearsals before paid performances and performance dates outside of the state.

Effective on Jan. 1, 2014, and applicable to tax years beginning on and after that date.

(Amends R.S. 47:6034(A), (B)(3), (5), (7)(a), (9) and (10)(a), (C)(1)(intro.para.), (a), and (d), and (E)(1)(c)(i) and (2)(a)(i)(ff))