

2015 Regular Session

SENATE BILL NO. 99

BY SENATOR MORRELL

TAX/TAXATION. Authorizes contracts for motion picture investor tax credit for five years, renewable for five more, for scripted television series if they agree to construct or lease production facilities in Louisiana and reach an agreement with LED on guaranteed expenditures and jobs for residents. (gov sig)

AN ACT

To amend and reenact the introductory paragraph of R.S. 47:6007(C)(1), R.S. 47:6007(D)(1)(b), (2)(c), (d)(i), the introductory paragraph of (e), and (e)(ii), and to enact R.S. 47:6007(B)(17) and (18), (D)(1)(d)(iv) and (2)(a)(ii), relative to motion picture investor tax credits; to authorize renewable contracts for motion picture investor tax credits for multiple years for certain scripted television/video series; to provide for conditions and procedures for granting such contracts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 47:6007(C)(1), R.S. 47:6007(D)(1)(b), (2)(c), (d)(i), the introductory paragraph of (e), and (e)(ii) are hereby amended and reenacted and R.S. 47:6007(B)(17) and (18), (D)(1)(d)(iv) and (2)(a)(ii) are hereby enacted to read as follows:

§6007. Motion picture investor tax credit

* * *

B. Definitions. For the purposes of this Section:

* * *

(17) "Qualified production facility" means a film, video, or television production facility in the state qualified in writing by the office and the secretary for purposes of the tax credit for scripted television/video series.

(18) "Scripted television/video series" means a state certified television production or video produced for any digital online platform which the office and the secretary determine will consist of a number of productions occurring over a number of seasons for more than one year, intended to be filmed according to a script and a substantial portion of the dialogue of which is scripted in advance of filming, and which production is otherwise determined by the office and secretary to be a "scripted series" as the term is used in the television and video industry.

* * *

C. Investor tax credit; specific productions and projects.

(1) There is hereby authorized a tax credit against state income tax for Louisiana taxpayers for investment in state-certified productions. The tax credit shall be earned by investors at the time expenditures are made by a motion picture production company in a state-certified production. However, credits cannot be applied against a tax or transferred until the expenditures are certified by the office and the secretary. For state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company agrees to reimburse the office for the costs of any additional certifications. State-certified productions which are scripted television/video series may be certified at the end of each season as provided for in the contract. The tax credit shall be calculated as a percentage of the total base investment dollars certified per project.

* * *

D. Certification and administration.

(1) * * *

(b) The secretary, the office, and the division of administration shall

1 determine, through the promulgation of rules, an appeals process in the event that an
2 application for, or the certification of or a contract, or the renewal of a contract,
3 for motion picture production tax credit or qualification as a qualified production
4 facility, is denied. The office shall promptly provide written notice of such denial to
5 the Senate Committee on Revenue and Fiscal Affairs and the House Committee on
6 Ways and Means.

7 * * *

8 (d) When determining which productions may qualify, the office and the
9 secretary of the Department of Economic Development shall take the following
10 factors into consideration:

11 * * *

12 (iv) The extent to which an applicant will utilize Qualified Production
13 Facilities.

14 (2)(a) Application. An applicant for the motion picture investor credit shall
15 submit an application for initial certification and/or for a contract for a scripted
16 television/video series to the office and the secretary of the Department of Economic
17 Development that includes the following information:

18 * * *

19 (ii) The application for a scripted television/video series shall also
20 include:

21 (aa) The estimated number of years the scripted television/video series
22 will be in production.

23 (bb) A contract for the applicant's investment in the construction of a
24 qualified production facility, or a lease of an existing qualified production
25 facility for a minimum of five years, contingent upon the applicants receipt of
26 a contract with the office for a scripted television/video series production.

27 (cc) A guarantee by the applicant, if granted the contract, of:

28 (I) The average annual amount of production expenditures the applicant
29 will expend over the course of production of the scripted television/video series.

(II) The number of full time jobs in which the applicant will employ Louisiana residents.

* * *

(c)(i) The Except as provided for a scripted television/video series in Item

(ii) of this Subparagraph, the office and the secretary shall submit their initial certification or written denial of a project as a state-certified production to investors and to the secretary of the Department of Revenue indicating the total base investment which shall be expended in the state on the state-certified production within sixty days of their receipt of all required information. The initial certification shall include a unique identifying number for each state-certified production.

(ii)(aa)The office and the secretary shall review the proposed guarantees and the proposed qualified production facility contracts in applications for contacts for a scripted television/video series. If the office and the secretary determines that the production is a scripted television/video series as defined in this Section and as the term is used in the television and video industry, they may accept the application or may negotiate with the applicant for terms which the office and secretary determine are in the best interest of the state. The office and the secretary may then enter into a contract with an applicant for tax credits to be certified and earned at the end of each season of the television/video series in the manner provided for other state-certified productions in this Section for a period of five years. In addition to any other requirements for certification of the applicant as a state-certified production, the contract shall set forth the obligations of the applicant with respect to the following:

(I)The investment by the applicant in the construction of a qualified production facility, or a lease of an existing qualified production facility for a minimum of five years, as provided for in the proposed contracts submitted by the applicant.

(II) A guarantee of the average annual amount of production

1 expenditures the applicant will expend over the course of production of the
2 scripted television/video series.

3 (III) A guarantee of the number of full time jobs in which the applicant
4 will employ Louisiana residents.

5 (bb) The office and the secretary shall submit their agreement to and
6 initial certification as a state-certified production of, or written denial of, the
7 application for a scripted television/video series to investors and to the secretary
8 of the Department of Revenue indicating the total base investment which shall
9 be expended in the state on the state-certified production. The initial
10 certification and contract shall include a unique identifying number for each
11 scripted television/video series.

12 (cc)(i) Violation of the terms and obligations of the contract shall void the
13 contract and no tax credits shall be certified or earned under the contract.

14 (ii) A contract and certification may be renewed for up to five years if the
15 applicant has complied with all the terms of the contract and has not performed
16 any act, nor failed to perform any act, which the office and secretary determine
17 would have been a violation of the applicant's obligations under the contract
18 and the office and secretary are reasonably assured of the applicant's continued
19 successful performance of the contract's terms if renewed. Denial of a renewal
20 may be appealed as provided for in this Section for denials of certification.

21 (d)(i) Prior to any final or season certification of the state-certified
22 production, the motion picture production company shall submit to the office and the
23 secretary a production audit report. The office and the secretary shall review the
24 production audit report and may require additional information needed to make a
25 determination. Within one hundred twenty days of the receipt of the production audit
26 report and all required supporting information, the office and the secretary shall issue
27 a tax credit certification letter indicating the amount of tax credits certified for the
28 state-certified production to the investors for all qualifying expenditures verified by
29 the office. Any expenditures for which tax credits were neither denied nor certified

1 due to insufficient information or other issues, the office and secretary shall
 2 diligently work to resolve the outstanding issues in a timely manner, and the office
 3 and secretary may subsequently issue a supplemental tax credit certification at the
 4 time of such resolution.

5 * * *

6 (e) In addition to the requirements of Subparagraph (d) of this Paragraph,
 7 prior to any final or season certification of a state-certified production or
 8 infrastructure project, the motion picture production company or infrastructure
 9 project applicant shall submit to the office a notarized statement demonstrating
 10 conformity with, and agreeing to, the following:

11 * * *

12 (ii) To publish, at completion of principal photography for an entire
 13 production or for a season, a notice at least once a week for three consecutive
 14 weeks in local newspapers in regions where filming has taken place in order to notify
 15 the public of the need to file creditor claims against the film production company by
 16 a specified date.

17 * * *

18 Section 2. This Act shall become effective upon signature by the governor or, if not
 19 signed by the governor, upon expiration of the time for bills to become law without signature
 20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 22 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Riley Boudreaux.

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| | DIGEST | |
| SB 99 Original | 2015 Regular Session | Morrell |

Present law requires applicants for motion picture investor tax credits to be certified for each production and limits certification of expenditures to no more than twice during the duration of a state-certified production unless the motion picture production company agrees to reimburse the office of entertainment industry development in the Department of Economic Development for the costs of any additional certifications.

Proposed law authorizes the office and the secretary to enter into a contract with an applicant

for tax credits to be certified and earned at the end of each season of a "television/video series" in the manner provided for other state-certified productions for a period of five years, renewable for an additional five years. If the office and the secretary determines that a production is a "scripted television/video series" as defined in the proposed law and as the term is used in the television and video industry, they may accept the application proposed or may negotiate with the applicant for terms which the office and secretary determine are in the best interest of the state.

"Scripted television/video series" is defined as a state certified television production or video produced for any digital online platform which the office and the secretary determine will consist of a number of productions occurring over a number of seasons for more than one year, intended to be filmed according to a script and a substantial portion of the dialogue of which is scripted in advance of filming, and which production is otherwise determined by the office and secretary to be a "scripted series" as the term is used in the television and video industry.

Proposed law requires the contract for a "scripted television/video series" to set forth the obligations of the applicant for credits with respect to the following, which are in addition to any other requirements for certification as a state-certified production:

1. The investment by the applicant in the construction of a "qualified production facility", or a lease of an existing "qualified production facility" for a minimum of five years, as provided for in the contracts submitted by the applicant with his application, which contracts are contingent upon the applicants receipt of a contract with the office for a "scripted television/video series" production.

"Qualified production facility" is defined as a film, video, or television production facility in the state qualified in writing by the office and the secretary for purposes of the tax credit for scripted television/video series.

2. A guarantee of the average annual amount of production expenditures the applicant will expend over the course of production of the scripted television/video series. The applicant is required to offer a guarantee for such amount in his application which may be accepted or negotiated by the office and the secretary.
3. A guarantee of the number of full time jobs in which the applicant will employ Louisiana residents. The applicant is required to offer a guarantee for such jobs in his application which may be accepted or negotiated by the office and the secretary.

Proposed law authorizes a contract and certification to be renewed for up to five years if the applicant has complied with all the terms of the contract and has not performed any act, nor failed to perform any act, which the office and secretary determine would have been a violation of the applicant's obligations under the contract and the office and secretary are reasonably assured of the applicant's continued successful performance of the contract's terms if renewed. Denial of a renewal may be appealed as provided for denials of certification.

Proposed law requires a contract to be voided and no tax credits to be certified or earned under the contract if there is a violation of the terms and obligations of the contract.

Present law limits certification of expenditures of a production for purpose of granting the credits no more than twice during the duration of a state-certified production unless the motion picture production company agrees to reimburse the office for the costs of any additional certifications.

Proposed law authorizes certification of credits for "scripted television/video series" at the end of each season as provided for in the contract.

Proposed law requires the secretary, the office, and the division of administration to determine, through the promulgation of rules, an appeals process in the event that an application for a contract, or the renewal of a contract, or qualification as a "qualified production facility", is denied. The office is required to promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6007(C)(1)(intro para), (D)(1)(b), (2)(c), (d)(i), (e)(intro para), and (e)(ii); adds R.S. 47:6007(B)(17) and (18), (D)(1)(d)(iv) and (2)(a)(ii))