2015 Regular Session

SENATE BILL NO. 226

BY SENATOR DONAHUE

TAX/TAXATION. Establishes a baseline limit on all claims against income tax for Digital Interactive Media and Software tax credits filed during a fiscal year on a first-come, first-served basis and gives claims above the amount priority in the next fiscal year. (gov sig)

1   AN ACT

2 To amend and reenact the introductory paragraph of R.S. 47:6022(D)(2), the introductory

3   paragraph of R.S. 47:6022(E)(2), and R.S. 47:6022(E)(2)(a) and (b) and (F)(3)(a)

4   and to enact R.S. 47:6022(D)(3), (F)(3)(e), (K), and (L), relative to the digital

5   interactive media and software credit; to provide a baseline amount of credits that

6   may be claimed in a fiscal year; to provide a termination date for the credit; and to

7   provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9   Section 1. The introductory paragraph of R.S. 47:6022(D)(2), the introductory

10 paragraph of R.S. 47:6022(E)(2), and R.S. 47:6022(E)(2)(a) and (b) and (F)(3)(a) are hereby

11 amended and reenacted and R.S. 47:6022(D)(3), (F)(3)(e), (K), and (L) are hereby enacted

12 to read as follows:

13   §6022. Digital interactive media and software tax credit

14   *   *   *

15   D. Tax credit; specific projects.

16   *   *   *

17   (2) ~~For~~ **Subject to the provisions of Subsection K of this Section, for**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1   applications for state-certified productions submitted to the office on or after July 1,

2   2009, and subsequently approved by the office and secretary, there are hereby

3   authorized tax credits which shall be earned by a company at the time funds are

4   expended in Louisiana on a state-certified production as follows:

5   *   *   *

6   **(3) No certifications shall be issued and no credits shall be earned after**

7   **June 30, 2021.**

8   E. Use of tax credits.   *   *   *

9   (2) For tax credits earned for expenditures made on or after January 1, 2012**,**

10   **and before July 1, 2021**:

11   (a) ~~The~~ **Subject to the provisions of Subsection K of this Section, the** tax

12   credits shall be refundable and allowed against the individual or corporate income

13   tax liability of the companies or financiers of the project in accordance with their

14   share of the credit as provided for in the application for certification for the project.

15   The credit shall be allowed for the taxable period in which expenditures eligible for

16   a credit are expended as set forth in the final tax credit certification letter. Any

17   excess of the credit over the income tax liability against which the credit may be

18   applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the

19   secretary of the Department of Revenue shall**, to the extent permitted by**

20   **Subsection K of this Section,** make a refund of such overpayment from the current

21   collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as amended.

22   The right to a refund of any such overpayment shall not be subject to the

23   requirements of R.S. 47:1621(B).

24   (b) ~~At~~ **Subject to the provisions of Subsection K of this Section, at** the

25   time of final certification of tax credits, a company may elect, on a one-time basis,

26   to receive a rebate of the credits. The amount of the rebate shall be eighty-five

27   percent of the face value of the credits. Upon receipt of the final tax credit

28   certification letter and any necessary additional information, the secretary of the

29   Department of Revenue shall**, to the extent permitted by Subsection K of this**

1   **Section,** make payment to the company, or its irrevocable designee, which may

2   include but not be limited to a bank or other lender, in the amount to which he is

3   entitled from the current collections of the taxes collected pursuant to Chapter 1 of

4   Subtitle II of this Title, as amended.

5   F. Administration.   *   *   *

6   (3) Certification. (a) The office shall review the company's application and

7   any other information which it deems appropriate for determination of the project's

8   eligibility for initial certification. For a project deemed eligible, the office shall

9   provide an initial certification of the project as a state-certified production to the

10   company and to the secretary of the Department of Revenue. The initial certification

11   shall be effective for expenditures made no more than six months prior to the date

12   of initial certification and shall be valid until the project is completed **or until June**

13   **30, 2021, if earlier**. The initial certification shall include a unique identifying

14   number for each state-certified production.

15   *   *   *

16   **(e) No certification of tax credits shall be issued pursuant to this Section**

17   **after June 30, 2021.**

18   *   *   *

19   **K. Notwithstanding any other provision of this Section, for each fiscal**

20   **year beginning Fiscal Year 2015-2016, no more than six million dollars, the**

21   **baseline average of the aggregate amount of claims filed for the credits provided**

22   **for in this Section during the five fiscal years from Fiscal Year 2008-2009 to**

23   **Fiscal Year 2013-2014, shall be allowed as a credit against income tax liability**

24   **for all such claims for the credit filed during a fiscal year. Claims for the credit**

25   **shall be allowed on a first-come, first-served basis. Any taxpayer whose claim**

26   **for such tax credit is disallowed may use the tax credit against tax liability due**

27   **in a return filed in the next fiscal year and his claim shall have priority over**

28   **other claims filed after the date and time of his original claim.**

29   **L. The provisions of this Section shall terminate June 30, 2021.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1   Section 2. This Act shall become effective upon signature by the governor or, if not

2 signed by the governor, upon expiration of the time for bills to become law without signature

3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

4 vetoed by the governor and subsequently approved by the legislature, this Act shall become

5 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 Laura Gail Sullivan.

DIGEST
SB 226 Original   2015 Regular Session   Donahue

Present law provides for the La. Digital Media and Software Act. Provides for the purpose, definitions, application of tax credits, use of the tax credits, administration of the program, and certification of the tax credits.

Proposed law retains present law.

Proposed law establishes a cap of $6 million on the total amount of credits allowed in a fiscal year beginning with FY 2015-16. This cap is the baseline average of the aggregate amount of claims filed for the credits provided for in present law during the five fiscal years from FY 2008-09 to FY 2013-14.

Proposed law provides that claims for the credit shall be allowed on a first-come, first-served basis. Provides that any taxpayer whose claim for the credit is disallowed may use the credit against income tax liability due in a return filed in the next fiscal year and his claim shall have priority over other claims filed after the date and time of his original claim.

Proposed law provides that this credit shall terminate June 30, 2021.

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

(Amends R.S. 47:6022(D)(2)(intro para), (E)(2)(intro para), (a), and (b), and (F)(3)(a); adds R.S. 47:6022(D)(3), (F)(3)(e), (K), and (L))

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.