

2015 Regular Session

SENATE BILL NO. 230

BY SENATOR DONAHUE

TAX/TAXATION. Establishes a baseline limit on all claims against income and franchise tax for musical and theatrical production income 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. 47:6034(C), the introductory
3 paragraph of R.S. 47:6034(C)(1), R.S. 47:6034(C)(1)(a)(ii)(aa) and (bb) and (4) and
4 (D)(1), and the introductory paragraph of R.S. 47:6034(E) and to enact R.S.
5 47:6034(I), relative to musical and theatrical production income tax credits; to
6 provide a baseline amount of credits that may be claimed in a fiscal year; to provide
7 a termination date for the credit; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. The introductory paragraph of R.S. 47:6034(C), the introductory
10 paragraph of R.S. 47:6034(C)(1), R.S. 47:6034(C)(1)(a)(ii)(aa) and (bb) and (4) and (D)(1),
11 and the introductory paragraph of R.S. 47:6034(E) are hereby amended and reenacted and
12 R.S. 47:6034(I) is hereby enacted, to read as follows:

13 §6034. Musical and theatrical production income tax credit

14 * * *

15 C. Income tax credits for state-certified productions and state-certified
16 musical or theatrical facility infrastructure projects. Subject to the provisions of

17 Subsection I of this Section:

1 (1) There ~~is~~ **are** hereby authorized the following types of credits against the
2 state income tax:

3 (a) * * *

4 (ii)(aa) For state-certified infrastructure projects that receive initial
5 certification on or before January 1, 2014, a base investment credit may be earned
6 for expenditures made in the state on or before January 1, 2015, for the construction,
7 repair, or renovation of a state-certified musical or theatrical facility infrastructure
8 project or for investments made by a company or a financier in such infrastructure
9 project which are, in turn, expended for such construction, repair, or renovation, not
10 to exceed ten million dollars per state-certified infrastructure project, under
11 conditions provided for in this Item. ~~No~~ **Except as provided in Subsection I of this**
12 **Section, no** more than sixty million dollars in tax credits under this Section shall be
13 granted for infrastructure projects per year.

14 (bb) For state-certified higher education musical or theatrical infrastructure
15 projects that receive initial certification on or before January 1, 2018, a base
16 investment credit may be earned for expenditures made in the state on or before
17 ~~January 1, 2022,~~ **June 30, 2021,** for the construction, repair, or renovation of a new
18 state-certified higher education musical or theatrical facility infrastructure project,
19 or for investments made by a company or a financier in such infrastructure project
20 that are, in turn, expended for such construction, repair, or renovation. ~~No~~ **Except**
21 **as provided in Subsection I of this Section, no** more than ten million dollars in tax
22 credits per project or sixty million dollars total in tax credits shall be granted for
23 state-certified higher education musical or theatrical infrastructure projects. Twenty-
24 five percent of the total base investment provided for in the initial certification letter
25 of a state-certified higher education musical or theatrical infrastructure project must
26 be expended on or before January 1, 2020, in order for the project to earn credits for
27 the remaining estimated base investment provided for in the initial certification
28 letter, as expenditures are made in the state on or before ~~January 1, 2022~~ **June 30,**
29 **2021.** No credits shall be certified until the state-certified higher education musical

1 or theatrical infrastructure project is complete. The initial certification letter shall be
2 effective for qualified expenditures made no more than six months prior to the date
3 of application. State-certified higher education musical or theatrical infrastructure
4 projects shall not be subject to the provisions of Subitem (cc) of this Item nor shall
5 such projects be subject to the provisions of Subsection H of this Section.

6 * * *

7 (4) The granting of credits under this Section shall be on a first-come, first-
8 served basis. If the total amount of credits applied for in any particular year exceeds
9 the aggregate amount of tax credits allowed for that year, the excess shall be treated
10 as having been applied for on the first day of the subsequent year. **In case of any**
11 **conflict between this Paragraph and Subsection I of this Section, Subsection I**
12 **shall control.**

13 D.(1) The credit shall be allowed against individual or corporate income tax
14 of the companies or financiers of the production or infrastructure project in
15 accordance with their share of the credit as provided for in the application for
16 certification for the production or infrastructure project. A company or financier
17 may, on a one-time basis, transfer the credit or any refund of an overpayment to an
18 individual or other entity including without limitation a bank or other lender,
19 provided that the transfer shall not be effective until receipt by the Department of
20 Revenue of written notice of such transfer. Transferors and transferees shall submit
21 to the Department of Revenue, in writing, a notification of any transfer of the tax
22 credit within ten business days after the transfer. The credit shall be allowed for the
23 taxable period in which expenditures eligible for a credit are expended. Any excess
24 of the credit over the income tax liability against which the credit may be applied
25 shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary of
26 the Department of Revenue shall, **to the extent permitted by Subsection I of this**
27 **Section,** make a refund of such overpayment from the current collections of the taxes
28 imposed by Chapter 1 of Subtitle II of this Title, as amended. The right to a refund
29 of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

* * *

E. Certification and administration. Subject to the provisions of SubsectionI of this Section:

* * *

I. Limitations; termination. (1) Notwithstanding any other provision of this Section, for each fiscal year beginning Fiscal Year 2015-2016, no more than four million dollars, the baseline average of the aggregate amount of claims filed for the credits provided for in this Section during the five fiscal years from fiscal year 2008-2009 to fiscal year 2013-2014, shall be allowed as a credit against income or corporate franchise tax liability, or both, for all such claims for the credit filed during a fiscal year. Claims for the credit shall be allowed on a first-come, first-served basis. Any taxpayer whose claim for such tax credit is disallowed may use the tax credit against income or corporate franchise tax liability due in a return filed in the next fiscal year, or both, and his claim shall have priority over other claims filed after the date and time of his original claim.

(2) The provisions of this Section shall terminate on June 30, 2021.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become 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 230 Original

2015 Regular Session

Donahue

Present law provides for the musical and theatrical production income tax credit for expenditures on productions or infrastructure projects. Provides relative to the purpose of, definitions applicable to, applications for, and administration of the program.

Proposed law retains present law.

Present law limits the amount of the credits that may be granted in a year to \$60 million.

Proposed law establishes a cap of four million dollars on the total amount of credits allowed in a fiscal year beginning with FY 2015-16. The 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 or corporate franchise 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 the program shall terminate June 30, 2021.

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

(Amends R.S. 47:6034(C)(intro para), (1)(intro para) and (a)(ii)(aa) and (bb), and (4), (D)(1), and (E)(intro para); adds R.S. 47:6034(I))