2023 Regular Session

HOUSE BILL NO. 562

BY REPRESENTATIVE SCHEXNAYDER

TAX CREDITS: Provides relative to the Motion Picture Production Tax Credit

AN ACT

To amend and reenact R.S. 47:6007(B)(11), (C)(4)(h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1), relative to the motion picture production tax credit; to provide relative to Louisiana promotional graphics requirements for productions; to provide relative to uses of the Louisiana Entertainment Development Dedicated Fund Account; to provide relative to expenditure data collection; to provide with respect to the Department of Economic Development program issuance cap; to remove certain limitations with respect to the issuance cap; to extend the sunset date of the tax credit; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6007(B)(11), (C)(4)(h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1) are hereby amended and reenacted to read as follows:

§6007. Motion picture production tax credit

B. Definitions. For the purposes of this Section:

* * *

(11) "Louisiana promotional graphic" means a graphical brand or logo for promotion of the state which has been approved by the office~~.~~ for a production and consists of the following:

(a) Either of the following:

(i) Up to a five-second long static or animated graphic that promotes Louisiana in the end credits before the below-the-line crew crawl for the life of the production.

(ii) Up to a five-second long static or animated embedded graphic that promotes Louisiana during each broadcast worldwide, in the end credits before the below-the-line crew crawl for the life of the production.

(b) An electronic press kit or a customized video for use by the office or an alternative asset as determined by the office.

* * *

C. Production tax credit; specific productions and projects.

* * *

(4) Transferability of the credit. Except as provided for in Subparagraph (g) of this Paragraph, motion picture tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the Department of Revenue, subject to the following conditions:

* * *

(h)

* * *

(iii) The money in the account shall be appropriated by the legislature as follows:

* * *

(bb) Seventy-five percent to the Department of Economic Development~~,~~ ~~office~~ for motion picture and television education development initiatives, matching grants for Louisiana filmmakers, ~~a loan guarantee program, and a deal closing fund.~~ Louisiana workforce development programs, and other motion picture and television related programs as determined by rule.

* * *

D. Certification and administration.

* * *

(2)

* * *

(c)(i) In order to protect the integrity of the motion picture investor tax credit program by ensuring that tax credits are certified only for eligible expenditures and to provide for uniformity in expenditure verification reporting, the department shall directly engage and assign an independent certified public accountant, hereinafter referred to as "CPA", to prepare, for the department, the required production expenditure verification report on a tax credit applicant's cost report of expenditures or claims. The applicant shall be responsible for and assessed any production expenditure verification report fee that may be required by law, including any up-front deposit of the fee. For purposes of the report, the applicant shall make all records related to the tax credit application available to the CPA. <u>For applications received on or after July 1, 2023, these records shall include a listing of all Louisiana expenditures detailing the date of the expenditure, the vendor's address including the zip code, and the amount of the expenditure.</u>

* * *

(d)(i) Project-based production tax credit. After application review and consideration of all discretionary factors, 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 ~~and shall provide for a preliminary allocation of tax credits by year~~.

* * *

I. No credits shall be allowed pursuant to this Section for applications received on or after July 1, ~~2025~~ <u>2035</u>.

J. Credit caps, structured pay outs, and project size limitations.

(1) Department of Economic Development program issuance cap.

(a) The department shall by rule establish ~~the method of provisionally allocating available tax credits in initial certification letters, and~~ the method for granting tax credits in final tax credit certification letters, including but not limited to a first-come, first-served system, reservation of tax credits for a specific time period, or other method which the department, in its discretion, may find beneficial to the program.

(b) For applications for state-certified productions and qualified entertainment companies submitted on or after July 1, 2017, <u>but prior to July 1, 2023,</u> the total amount of all tax credits granted in a final certification letter by the department in any fiscal year shall not exceed one hundred fifty million dollars. Twenty percent of the annual program cap shall be reserved as follows: five percent for qualified entertainment companies, five percent for Louisiana screenplay productions, and ten percent for independent film productions. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

~~(c)~~ (i) If the total amount of credits granted to QECs in any fiscal year is less than the QEC cap, any residual amount of unused credits shall carry forward for use in subsequent years and may be granted in addition to the QEC cap for each year.

(ii) If the total amount of credits granted in any fiscal year to screenplay productions or independent film productions is less than their respective caps, any residual amount may be available for issuance by the department during that fiscal year as established by rule.

~~(d)~~ <u>(iii)</u> The department shall make reasonable efforts to post a listing of estimated amounts available under the cap on its website.

<u>(c) For applications for state-certified productions and qualified entertainment companies submitted on or after July 1, 2023, the total amount of all tax credits granted in a final certification letter by the department in any fiscal year shall not exceed one hundred fifty million dollars. If the total amount of credits</u>

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applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 562 Engrossed 2023 Regular Session Schexnayder

Abstract: Extends the sunset of the motion picture production tax credit from July 1, 2025, to July 1, 2035, and expands the definition of a "La. promotional graphic".

Present law authorizes the following tax credits for state-certified productions:

(1) A 25% tax credit if the base investment is in excess of $300,000 or if the production is a La. screenplay production.

(2) An additional 5% base investment credit for projects filmed outside the New Orleans Metro Zone, but not including St. John the Baptist Parish.

(3) An additional 10% base investment credit for certain expenditures equal to or greater than $50,000 but less than $5 million for projects meeting certain La. screenplay criteria.

(4) A 15% credit for La. resident payroll expenditures.

(5) A 5% credit for certain La.-based visual effects expenditures meeting certain requirements.

Proposed law retains present law.

Present law defines a "La. promotional graphic" as a graphical brand or logo for promotion of the state that has been approved by the office of entertainment industry development in the Dept. of Economic Development (DED), hereinafter "office", and requires productions to acknowledge the financial assistance of the state, either through the inclusion of a La. promotional graphic or an alternative marketing option approved by the office.

Proposed law expands the definition of "La. promotional graphic" to include an electronic press kit or a customized video for use by the office or an alternative asset as determined by the office *and* either of the following:

(1) Up to a five-second long static or animated graphic that promotes La. in the end credits before the below-the-line crew crawl for the life of the production.

(2) Up to a five-second long static or animated embedded graphic that promotes La. during each broadcast worldwide, in the end credits before the below-the-line crew crawl for the life of the production.

Present law provides for a cap of $150M in any fiscal year on tax credits that may be granted in a final certification letter by DED for state-certified productions and qualified entertainment companies (QEC) submitted on or after July 1, 2017. If the total amount of credits applied for in a year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Present law reserves 20% of the annual program cap as follows: 5% for qualified entertainment companies, 5% for La. screenplay productions, and 10% for independent film productions.

Proposed law retains present law with respect to the $150M DED program issuance cap but repeals the reservation of tax credits in present law for state-certified productions and QEC applications submitted on or after July 1, 2023.

Present law provides for establishment of the La. Entertainment Development Dedicated Fund Account for deposit of fees collected by the Dept. of Revenue (DOR) pursuant to notifications of transfer of tax credits. Present law requires 25% of the monies in the account to be appropriated to DOR for administrative purposes and 75% of the monies to be appropriated to the office for education development initiatives, matching grants for La. filmmakers, a loan guarantee program, and a deal closing fund.

Proposed law retains present law but changes the use of the monies in the account appropriated to the office by eliminating the loan guarantee program and a deal closing fund and including La. workforce development programs, and other motion picture and television related programs as determined by rule.

Present law requires DED to engage an independent certified public accountant to prepare a production expenditure verification report on a tax credit applicant's cost report of expenditures or claims. Present law further requires the applicant to make all records available to the CPA.

Proposed law requires the records to include a listing of all La. expenditures detailing the date of the expenditure, the vendor's address including the zip code, and the amount of the expenditure for applications received on or after July 1, 2023.

Present law requires DED to submit an initial certification or written denial of a project as a state-certified production to investors and the secretary of DOR within 60 days of receipt of required information. Further requires the initial certification to include a primary allocation of tax credits by year.

Proposed law retains present law with respect to submission of an initial certification or written denial but repeals present law provisions with respect to inclusion of a primary allocation of tax credits by year in an initial certification.

Present law prohibits motion picture production tax credits from being allowed for applications received on or after July 1, 2025.

Proposed law extends the sunset of this tax credit from July 1, 2025, to July 1, 2035.

(Amends R.S. 47:6007(B)(11), (C)(4)(h)(iii)(bb), (D)(2)(c)(i) and (d)(i), (I), and (J)(1))

Summary of Amendments Adopted by House

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

1. Expand the definition of a "Louisiana promotional graphic".

2. Remove provision that would have eliminated the alternative marketing option for productions submitting an application on or after July 1, 2023.

3. Remove provision that would have eliminated the $150M Dept. of Economic Development program issuance cap.

4. Add provision that specifies that the 20% allotment of the $150M Dept. of Economic Development program issuance cap in present law reserved for qualified entertainment companies (QEC), La. screenplay productions, and independent film productions shall not apply to state-certified productions and QEC applications submitted on or after July 1, 2023.

5. Delete the repeal of the sunset provision of this tax credit in favor of extending the sunset from July 1, 2025, to July 1, 2035.