Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 9 of the 128th G.A.

Date: March 11, 2009

Status: As Passed by the Senate

Sponsor: Sen. Patton

Local Impact Statement Procedure Required: Yes

Contents: Authorizes a nonrefundable, transferable motion picture credit against the personal income tax

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss up to $94.1 million	Potential loss up to $94.1 million	Potential loss up to $94.1 million
Expenditures	Increase, potentially up to $250,000	Increase, potentially up to $250,000	Increase, potentially up to $250,000

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The nonrefundable but transferable personal income tax credit for investments made in motion picture productions based in Ohio may reduce total income tax revenue by up to $100 million per year. The GRF would bear 94.1% of any revenue loss. Any unutilized tax credit may be carried forward for up to ten consecutive tax years.
- The Department of Development would process applications from companies to produce state-certified motion pictures, and would certify the amount before issuing tax credits. There would likely be some increase in expenditures on account of administering this tax credit.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Local Government Funds (LGF, PLF)			
Revenues	Potential loss up to $5.9 million	Potential loss up to $5.9 million	Potential loss up to $5.9 million
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The nonrefundable but transferable personal income tax credit for investments made in motion picture productions based in Ohio may reduce total income tax revenue by up to $100 million per year. The local government fund (LGF) and public library fund (PLF) would bear 3.68% and 2.22%, respectively, of any revenue loss from the proposed tax credit.

Detailed Fiscal Analysis

S.B. 9 creates a nonrefundable income tax credit for investment in a state-certified motion picture production. The bill defines motion picture to be "entertainment content created in whole or in part within this state," and enumerates a number of examples. The Director of Development would be responsible for certifying motion picture production expenses, so that the Director may issue tax credit certificates to taxpayers who invested in the production. To be eligible for the credit, a production must be certified as eligible by the Director of Development on or after January 1, 2009 and before January 1, 2014. Given the permissive nature of the proposed language, the Director will maintain discretion in determining which eligible productions, if any, receive the credit.

The amount of the tax credit depends on the "base investment" in the production, defined by the bill to be the amount invested by the taxpayer in a motion picture production company multiplied by the production expenditure of the company spent in Ohio as a percent of its total production expenditure. "Base investment" is defined to be zero if the amount invested is less than $300,000. The amount of the credit is 25% of the base investment. The value of credits certified in any one year may not exceed $100 million in total, and not more than $25 million may be certified for any one production. The credit is nonrefundable and unused credits may be carried forward for up to ten years.

Additionally, an investor may transfer all or part of the credit amount stated on the credit certificate, and any subsequent certificate owner also may transfer all or part of the credit represented by the certificate. There are currently no tax credits under Ohio's personal income tax that are transferrable. All transfers must be made in accordance with rules prescribed by the Director of Development and must be reported to the Tax Commissioner.

Fiscal effect

The Department of Development would experience an increase in costs to administer the certification of eligible productions, to audit expenses and determine whether to disallow expenditures on productions as ineligible, and to provide for hearings if a taxpayer appeals the disallowance of any expenditures as ineligible. The transferability of the credits would add to the increase in costs. LSC staff do not have an estimate of the cost increase, but it could be significant. The Department may need to hire up to two or three new staff to perform these new duties, increasing costs by up to $250,000 per year. The bill does not make an appropriation, meaning any such expenditures would have to be made from existing appropriations.

Without reliable data on eligible film production expenses in Ohio, LSC could not estimate the revenue loss due to the proposed tax credit. The magnitude of any

revenue loss would depend on the number of eligible productions certified by the Director of Development, under rules adopted by the Director, but would not exceed $100 million, on average, in any fiscal year.

As an illustration, if a production company spends 40% of its total expenditure in Ohio out of a total budget of $50 million, and if an Ohio taxpayer invests $10 million in this production, the eligible investment is $4 million (40% of $10 million) and the tax credit would be for $1 million (25% of $4 million). The taxpayer would get a certificate for a tax credit of $1 million, which could be claimed over a period of ten years if carried forward, or transferred to other taxpayers.

Given the limited number of eligible films, the revenue loss from tax credits for productions that would have been produced in Ohio may be expected to be on the low side. However, because the tax credit is transferable and can be carried forward over a ten-year period, more taxpayers may be encouraged to invest in the film industry, and the number of films produced in Ohio may increase, thus increasing the revenue loss. This revenue loss may be offset partially, if the tax credit program succeeded in luring movie productions to Ohio that would otherwise have been produced elsewhere, thus increasing Ohio employment and income generation. Based on the experiences of other states that have enacted similar tax credits, the revenue loss is likely to be in the tens of millions of dollars per year, and may vary significantly from year to year.

Background – regional competition for motion pictures

Tax incentives are one of several factors that influence the sourcing of motion picture production. A producer's decision-making is also influenced by the availability of production crews and suitable filming locations. Industry trade publications indicate that the motion picture industry clusters into regions according to similarities in landscapes and proximity to ample labor supply.[1] For example, several states in the northeast have comparable locations and a well-established filmmaking infrastructure. As such, state tax incentive programs administered in Connecticut, New Jersey, New York, Massachusetts, Rhode Island, and to a lesser extent, Pennsylvania, compete for films in that region.

Ohio would likely compete with other industrial neighbors along the Great Lakes including Michigan, Illinois, and Indiana. U.S. Bureau of Labor Statistics employment estimates indicate that Ohio possesses approximately 3,980 jobs with skill

[1] According to a 2008 National Governors Association Issue Brief: "States that enjoy a high level of film production activity are those considered to be "production clusters." Production clusters have all the elements necessary to produce a film from start to finish, such as skilled production and post-production workforces, production facilities, and existing film infrastructures that support financing, development, and distribution. Well-established production clusters are located in states such as California, Illinois, New York, and North Carolina."

sets applicable to motion picture production.[2] This figure is competitive with neighbors such as Pennsylvania (4,770), Michigan (4,780), and Illinois (4,250) while superior to Indiana (2,320), Kentucky (1,690), and West Virginia (350).

As noted above, several states have enacted tax incentives for motion picture production. The structure of the credit differs significantly from state to state, though, making it very difficult to compare both the relative value to the industry of the different states' credits and the revenue loss that may be expected.

Credits may differ according to the percentage of the investment for which a credit is available, for example, though this type of difference is easy to compare across states. The credit in the bill would be worth 25% of a production's base investment. This would be more attractive to the industry and, holding other factors constant, would cause greater revenue losses than the 15% rate offered by Indiana. Conversely, it would be less attractive and cause smaller revenue losses than the 30% rate offered by Illinois and the 40%-42%[3] rate offered by Michigan.

But tax credits may differ in other ways that are less easily compared. Credits may be transferrable between investors and other taxpayers, or not. A total of 13 states offer transferrable tax credits (refer to Table A), but only 11 were available prior to calendar year 2008.[4] Tax credits may have a global cap, similar to the bill's $100 million per year cap, or a per-production cap, similar to the bill's $25 million cap, or none at all. And different states may define eligible investments differently.[5]

The proposed credit can be expected to provide support for the industry in Ohio. Given the difficulties in comparing credits across states, though, and the fact that states are continually enacting new credits and modifying existing credits, LSC economists cannot quantify the impact the bill's credit would have on Ohio's industry.

Dynamic Revenue Effect

No fewer than three states have published reports estimating the dynamic revenue effects of their film tax incentive programs. The State of Louisiana Legislative Fiscal Office estimated that state revenue gains from stimulated economic activity settle to about 16%-18% of tax credit costs. The Connecticut Department of Economic and

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[2] Includes May 2007 Occupation Employment Statistics data for camera operators, film and video editors, media and communication equipment workers, sound engineering technicians, audio and video equipment technicians, broadcast technicians, and other media and communication workers.

[3] Qualifying expenditures made in a designated Core Community in Michigan are eligible for a 42% credit whereas those made in a "non-core" community in Michigan are eligible for a 40% credit.

[4] Alaska and West Virginia both enacted motion picture tax credits for 2008 with caps of $100 million and $10 million, respectively, but data is not yet available and so they are excluded from any analysis of historical performance.

[5] Georgia and Illinois, for example, impose a cap on the amount of salary going to an individual worker on a production (e.g., a well-paid actor) that can be counted as an eligible expenditure. Generally, those states with a cap set it near $1 million per employee, but it can range from $100,000 to $15 million.

Community Development published a fiscal impact study for the state's film incentive program. It concluded that for every dollar spent on its film tax credit, the state receives $0.08 back in additional revenue. The state of Massachusetts commissioned a study of hypothetical film expenditures and concluded that its film industry tax incentives are estimated to generate offsetting tax revenue of $17.9 million to $23.0 million for each $100 million tax expenditure. Given the lack of consensus in precisely identifying the offsetting revenue effects for other states' film incentive programs, LSC economists do not incorporate any estimate of the kind in this analysis.

Table A: Amounts issued for those states with transferrable motion picture tax credits

State	Beginning Effective Date	2008 Tax Credit Cap	FY 2006	FY 2007	FY 2008	Notes
Alaska	9/1/2008	$100 million	N/A	N/A	N/A	
Arizona*	1/1/2006	$50 million	$30,000,000	$40,000,000	$37,398,801	2008 data current as of 10/10/2008
Connecticut	1/1/2006	None	$86,000,000 for period 1/2006 to 9/2007		Unavailable	Estimated $116 million liability for FY 2009
Georgia	1/1/2005	None	Unavailable	Unavailable	Unavailable	
Illinois*	1/1/2004	None	$8,217,391	$20,726,565	Unavailable	
Iowa	1/1/2007	None	N/A	$21,000,000 (approx.)		Film office discloses aggregated data for period 1/2007 to 6/2008
Louisiana	7/1/2002	None	$70,420,353	$78,647,228	Unavailable	Credits transferrable beginning in 2004
Massachusetts	1/1/2006	None	$17,500,000	$53,400,000	$63,000,000	
Missouri**	1/1/1999	$4.5 million	$788,596	$1,240,972	$1,920,709	Cap increased from $1.5 million to $4.5 million beginning 1/1/2008
New Jersey	1/1/2005	$10 million	$10,000,000	$10,000,000	$10,000,000	
Pennsylvania	6/30/2004	$75 million	$10,000,000	$10,000,000	$75,000,000	July 2007 legislation increases cap to $75 million
Rhode Island*	1/1/2005	None	$8,225,406	$22,576,390	$12,788,434	Fiscal Year 2009 cap is $15 million
West Virginia	1/1/2008	$10 million	N/A	N/A	Unavailable	

* Data reported on calendar year basis.
** Missouri data represent credits redeemed instead of tax credits issued.

All figures reported by respective state film offices, revenue departments, or economic development departments.

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