OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 4
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Sen. Schuring

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2024	FY 2025	Future Years
State General Revenue Fund			
Revenues	Potential loss	Loss between $77 million and $193 million	Annual loss between $77 million and $193 million
Tax Incentive Operating Fund (Fund 5JR0)			
Revenues	Gain up to $0.5 million	Gain up to $0.5 million	Annual gain up to $0.5 million
Expenditures	Commensurate with revenues	Commensurate with revenues	Commensurate with revenues
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Potential loss	Loss between $3 million and $7 million	Annual loss between $3 million and $7 million

Note: The fiscal year for the state, school districts, and certain other local governments runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- The bill eliminates the $40 million per year cap on the existing motion picture tax credit and authorizes a new, refundable tax credit, which is awarded to production companies that complete a capital improvement project in Ohio. The bill caps awards for the new credit to $100 million per fiscal year.

- The Department of Development will incur additional administrative costs, which will be recouped from tax credit applicants through an existing fee that is also extended to the new tax credit. Associated revenues are deposited into Fund 5JR0.
- Revenue losses under the bill primarily reduce GRF revenue, but also reduce revenue to the Local Government Fund (LGF) and the Public Library Fund (PLF). These funds are used to distribute revenue to municipalities, counties, townships, public libraries, and certain special districts.

Detailed Analysis

The bill modifies an existing tax credit for companies that produce a motion picture or Broadway theatrical production in Ohio and authorizes a new tax credit for production companies that make a capital investment in Ohio. The bill makes both credits transferrable; the existing credit is not currently transferrable. Both credits require an application fee (the new credit's fee mimics the existing credit's fee structure) to cover the Department of Development's (DEV) administrative costs. The DEV Director currently charges each applicant an application fee equal to the lesser of $10,000 or 1% of the estimated value of the tax credit as stated in the application, with the fee revenue credited to the Tax Incentives Operating Fund (Fund 5JR0).

Motion picture tax credit

Background

The Ohio Motion Picture Tax Credit (OMPTC) provides a refundable tax credit of 30% on production cast and crew wages plus other eligible in-state spending. OMPTC was created in 2009 to encourage and develop a film industry in Ohio. Codified law makes $40 million in OMPTCs available beginning July 1 each year. The annual limit can be exceeded for any credit allotment that was not awarded in the preceding fiscal year and carried over. The credit may be claimed against the commercial activity tax (CAT), financial institutions tax (FIT), and income tax.[1]

Fiscal effect

The bill eliminates the $40 million cap on the total amount of OMPTCs that may be awarded by DEV each fiscal year. The bill retains the current law stipulation that no tax credit may be issued before completion of the production. The bill also requires DEV to evaluate a production's economic impact before certifying that it is tax credit-eligible. The Director must determine that the production is likely to have a positive economic impact on either the state as a whole or in a community in which the production company will make eligible expenditures.

Several states have an "uncapped" motion picture tax credit program or a tax credit cap that is higher than Ohio's current $40 million limitation. Among these states, it is not uncommon to see them report issuing between $80 million and $100 million of tax credits per year. The most

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[1] Productions which may be approved for the OMPTC include feature-length films, documentaries, long-form specials, miniseries, series and interstitial television programming, pre-Broadway productions, long-run productions, tour launches, interactive websites, sound recordings, videos, music videos, interactive television commercials, any format of digital media, and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promoting, or exploitation of future investment in either a product or a motion picture by any means and media in any digital media format, film, or videotape.

prolific state is Georgia, which estimated that it will issue $1 billion in film tax credits in FY 2023. An uncapped Ohio credit could reduce tax receipts by an additional $30 million to $100 million per year. Given the timeframe necessary to complete a production, LBO staff believes it is unlikely any OMPTCs authorized by the bill will be issued in FY 2024, so that revenue losses would likely begin in FY 2025.

Film and theater improvement tax credit

The bill authorizes a new tax credit for a motion picture or Broadway theatrical production company that completes a capital improvement project in Ohio. Eligible projects include the construction, acquisition, repair, or expansion of facilities or equipment that will be used in a motion picture or Broadway production or for postproduction.

Generally, the credit equals 25% of either the company's actual Ohio-sourced capital improvement expenditures, or the amount of such expenditures estimated on the company's application, whichever is less. Eligible expenditures include the purchase of goods or services directly for use in a capital improvement project, as well as any accounting and auditing expenses incurred to comply with the bill's reporting requirements, but does not include expenses on the basis of which an existing production credit has been awarded.

Fiscal effect

The credit is capped at $5 million per project, and $100 million per fiscal year overall. If the Director of Development does not issue the full $100 million allotment in a particular fiscal year, the excess allotment can be carried forward to the next fiscal year. The credit is refundable and may be claimed against the CAT, FIT, and income tax. Given the timing considerations, LBO staff anticipates revenue losses would occur in the year following DEV's approval of a capital project. The amount of credits issued in a given year could vary between $50 million and $100 million per year.

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