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Bill Analysis

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Primary Sponsors: Sens. Patton and Timken

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SUMMARY

Film and theater capital improvement tax credit

- Repeals the film and Broadway theater capital improvement tax credit.

Film and theater production tax credit

- Increases the annual film and Broadway theater production tax credit limit from $50 million to $100 million per fiscal year.
- Replaces the current application rounds and ranking process for awarding those credits by instead requiring the review of applications on a continuing basis and awards on a first-come, first-served basis.
- Allows an investment intent letter to be used as documentation that shows the credit applicant has secured funding equal to at least 50% of the total production budget.
- Requires a certified public accountant, after identifying eligible expenditures, to review and certify to the Department of Development (DEV) contract and expense items of $10,000 or more and at least 50% of those less than $10,000.

DETAILED ANALYSIS

Film and theater capital improvement tax credit

The bill repeals the film and Broadway theater capital improvement tax credit. Current law authorizes a refundable and transferable commercial activity tax (CAT), financial institutions tax (FIT), or income tax credit for a motion picture or Broadway theatrical production company that completes a capital improvement project in Ohio with a positive economic impact. Eligible projects include the construction, acquisition, repair, or expansion of facilities or equipment that will be used in motion picture or Broadway productions or for postproduction.

Generally, the credit equals 25% of either the company's actual qualified expenditures, or the amount of such expenditures estimated on the company's application, whichever is less. Qualified expenditures are expenditures for goods and services purchased and consumed directly for a capital improvement project, and 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 act's reporting requirements. They do not include expenses on the basis of which a motion picture and theater credit has been awarded.

The credit is capped at $5 million per project, $5 million per county, and $25 million per fiscal year overall. If DEV does not issue the full $25 million allotment in a particular fiscal year, the excess allotment can be carried forward to the next fiscal year. Additionally, DEV may reduce the maximum amount for any fiscal year and increase the maximum amount for the film and theater production tax credit (described below) by a corresponding amount.[1]

Film and theater production tax credit

Current law allows a refundable tax credit for companies that produce all or part of a motion picture or Broadway theatrical production in Ohio and incur at least $300,000 in production expenditures. The credit equals 30% of the company's actual or budgeted expenditures, whichever is less, for goods, services, and payroll involved in the production. A company can claim the credit against the CAT, FIT, or income tax. To obtain a credit, a company must first submit an application to DEV.

The bill increases the annual film and Broadway theater production tax credit limit from $50 million to $100 million per fiscal year. Under current law, film and theater tax credits equaling $50 million, plus any amounts not awarded from the previous fiscal year's cap and any amounts transferred from the capital projects credit allotment, can be awarded each fiscal year. The bill continues to allow amounts available but not awarded in the previous fiscal year to be carried forward but the transfer from the capital improvement credit is eliminated with that credit (described above). Under continuing law, unchanged by the bill, $5 million of the cap is reserved for Broadway theatrical productions each fiscal year and any unawarded amount carried forward to the next year remains reserved for Broadway.

The bill also modifies the process for granting credit applications, which is based on a ranking system. Instead, the bill requires DEV to accept and review applications on a continuing basis, with credits awarded to all eligible productions on a first-come, first-served, basis unless awarding all pending applications would exceed the credit limit. In those cases, such applications would be ranked and awarded on the basis of economic impact, which is the same ranking basis as under current law.

Under current law, DEV awards credits in two rounds, with the first ending July 31 and the second ending January 31. Currently, DEV may only award up to one-half of the available credits for the fiscal year in the first round, including those reserved and available for Broadway.

[1] R.C. 122.85(A)(4) and (C)(4), 122.852, repealed, 5726.59, repealed, 5726.98, 5747.67, repealed, 5747.98, 5751.55, repealed, and 5751.98.

Under current law, the application process requires documentation that shows the company has secured funding equal to at least 50% of the total production budget. The bill allows this documentation to be in the form of an investment intent letter. The bill requires a certified public accountant, after identifying eligible expenditures, to review and certify to DEV all contract and expense items of $10,000 or more and at least half of those less than $10,000. Current law requires a certified public accountant to identify eligible expenditures and issue a report to the company and DEV but does not require review and certification of expense items.[2]

HISTORY

Action	Date
Introduced	04-01-25

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[2] R.C. 122.85(A)(11), (B)(12), (C)(4) and (5), and (D).