Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 52** DATE: **December 2, 2008**

STATUS: **As Introduced** SPONSOR: **Sen. Clancy**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Establishes an income tax credit for individuals investing in Ohio movie productions and creates the Ohio Media Production Advisory Committee**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Potential loss up to $2.82 million	Potential loss up to $2.82 million
Expenditures	Minimal increase	Minimal increase	Minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- The bill proposes a nonrefundable, nontransferable personal income tax credit for investments made in motion picture production companies based in Ohio. The percentage of tax credit varies according to the level of approved base investments as defined in the bill. If the taxpayer is unable to claim the full credit in any tax year due to his limited tax liability, he may carry it forward for three consecutive tax years.

- The magnitude of the revenue loss is effectively limited by the per year limit of $3 million and per certified production limit of $500,000. Further, future revenue loss may be offset partially if the tax credit program succeeded in luring movie production to Ohio that would otherwise have been produced elsewhere.

- The loss to GRF is calculated based on the Revised Code formula for distributing income tax revenue. GRF would experience 94.1% of any revenue loss from the proposed tax credit.

- The Department of Development would process applications from companies to produce state-certified motion pictures, and would certify the amount of tax credits available to the Tax Commissioner. There would likely be some increase in expenditures on account of administering this tax credit. The introduced bill requires the Director of Development to provide up to $50,000 from FY 2008 appropriations to the Department to provide funding for the Ohio Media Production Advisory Committee.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009	FY 2010	FUTURE YEARS
Local Government Funds (LGF, PLF)			
Revenues	- 0 -	Potential loss up to $177,000	Potential loss up to $177,000
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 bill proposes a nonrefundable, nontransferable personal income tax credit for investments made in motion picture production companies based in Ohio. The percentage of tax credit varies according to the level of approved base investments as defined in the bill. If the taxpayer is unable to claim the full credit in any tax year due to his limited tax liability, he may carry it forward for three consecutive tax years.

- The nonrefundable, nontransferable personal income tax credit for investments made in motion picture production companies based in Ohio may reduce total income tax revenue by up to $3 million per year. The local government funds, i.e., the Local Government Fund (LGF) and Public Library Fund (PLF), would bear 5.9% of any revenue loss from the proposed tax credit.

Detailed Fiscal Analysis

S.B. 52 creates a nonrefundable tax credit under the individual income tax for a percentage of the investment in a state-certified motion picture production. The bill states that the credit would be available beginning tax year 2008. The bill defines motion picture production to be "a nationally distributed feature-length film, video, or television series made in this state, in whole or in part, for theatrical or television viewing, or as a television pilot," excluding the production of television coverage of news and athletic events. The Director of Development would be responsible for creating application forms that include specified information about the production company, evaluating applications, certifying motion pictures to the Tax Commissioner, reviewing the base investment of each state-certified production, and issuing tax credit certificates to taxpayers who invested in the production. The Director is required to adopt rules regarding how a production may become a state-certified motion picture production, in consultation with the Tax Commissioner, and the rules must specify that a production company must be headquartered in Ohio to be eligible.

The amount of the tax credit depends on the "base investment" in the production, defined by the bill generally to be the amount of production-related costs expended in Ohio. If the base investment is greater than $300,000 but less than or equal to $8 million, then the taxpayer may be allowed a credit worth 15% of the investment made by the taxpayer. If the base investment is greater than $8 million, then the taxpayer may be allowed a credit worth 20% of the investment. The maximum amount of credit available per state-certified production is $500,000. The maximum credit available to all productions in any taxable year is $3 million. The taxpayer may carry forward any credit amount in excess of its tax liability after allowing for all other preceding credits. The excess credit, if any, may be carried forward for not more than three subsequent tax years.

Ohio Media Production Advisory Committee

The bill would also create the Ohio Media Production Advisory Committee to conduct a study of the electronic media production industry in Ohio.[1] The Committee is to issue a report to the General Assembly within nine months of the effective date of the bill, and would cease to exist when the report is issued. The report is to be based on a comprehensive study of the electronic media production industry in Ohio and is to include recommendations for private sector and public policy initiatives that can lead to growth of the industry, increase job opportunities, and enhance Ohio's image as a desirable place to do business.

The number of members of this Committee is specified at 22 and they are to be drawn from the House of Representatives, the Senate, Department of Taxation, Department of Development, and a few more Governor-appointees from the industry. The Committee is to meet at least once every two months, and the members are to serve without compensation; the bill does not specify whether members are to receive reimbursement for travel expenses. The introduced bill states that the Director of Development is to make available up to $50,000 out of existing FY 2008 appropriations to pay for the study and the report.

Background

Several states have enacted programs in recent years to encourage motion picture production companies to engage in filmmaking in their states. One of the first states to do so was Louisiana, and the tax incentive that would be established by the bill is similar to one of the features of the Louisiana program. The Louisiana Motion Picture Incentive Act, enacted in 2002, originally granted 10% tax credits to film investors spending more than $300,000 to produce films in the state, and granted 15% tax credits for productions costing over $1 million; the higher threshold was raised to $8 million for productions certified after January 1, 2004. The tax credit has been further enhanced to 25% for production approved after January 1, 2006. The Act also contained an employment tax credit and relief from sales and use taxes for motion picture productions. Various sources report a significant increase in motion picture production in Louisiana subsequent to passage of the Act; some estimates put the increase in investment at approximately $180 million. The State of Louisiana Department of Revenue 2007-2008 Tax Exemption Budget reports that revenue lost due to the credit in that state was $70.4 million in FY 2006 and $78.6 million in FY 2007.

Fiscal effect

The Department of Development would incur some expenses to administer the program. A Department official indicates that the program would be housed in the Office of Travel and Tourism, and that any such expenses would be paid out of line item 195-407, Travel and Tourism, a GRF line item. The official expects administrative costs to be minimal and, in particular, does not anticipate that an additional full-time staff member would be needed.

[1] For this purpose, the bill specifies that the media production industry does not include broadcast or cable television, radio stations, or musical or performing arts groups.

To the extent that a state-certified motion picture production would have been produced in Ohio in the absence of the provisions of this bill, the bill would reduce revenue to the GRF and to the local government funds. The magnitude of such reduction would depend on the number of productions certified by the Director of Development, under rules adopted by the Director. The bill requires that the company be headquartered in Ohio to be eligible for the tax credit.

An official with the Office of Strategic Research in the Department of Development provided a list of 34 companies headquartered in Ohio classified in the motion picture and video production services industry (NAICS classification 51211). The list was derived from a 2005 Harris InfoSource list. Of the 34 companies currently headquartered in Ohio, one seems to be a television station engaged in production of television news, and thus ineligible for state certification of productions. Of the remaining 33 companies, just 11 have 25 or more employees, so presumably no more than a dozen or so existing firms in Ohio would have the resources to produce nationally distributed productions, thus qualifying for certification under the bill's provisions.

Given the limited number of eligible firms, the revenue loss from tax credits for productions that would have been produced in Ohio without the bill would likely be fairly minimal in most years. The bill limits the total value of credits available, and therefore the revenue loss, to $3 million per year. The credit amount that could be claimed in the year in question would depend on the taxpayers' tax liabilities, and any carried-forward credits from previous tax years, the limit of $500,000 per state-certified production, and the yearly limit for this credit, namely, $3 million. If the annual limit is claimed in full, it will reduce money available to the GRF by $2.82 million and local government fund revenues by $177,000.

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