



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 525

132nd General Assembly

(As Reported by H. Government Accountability and Oversight)

Reps. Schuring, Rosenberger

BILL SUMMARY

- Extends eligibility for the motion picture tax credit to certain live theater productions.
 - Adds post-production, advertising, and promotional expenses to the kinds of expenditures for which the credit may be claimed.
 - Disqualifies any motion picture or live theater production that does not begin within six months after being certified as eligible.
 - Stipulates that tax credit certificates are to be awarded in two rounds – in July and January – each fiscal year.
 - Requires the Director of Development Services to rank the applications submitted for each round based on the economic and workforce development impact of the production and to award tax credits in the order of the ranking.
 - Specifies that the bill's changes apply in FY 2019 and thereafter.
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CONTENT AND OPERATION

Motion picture tax credit

The bill modifies the law governing the motion picture tax credit. Continuing law allows a refundable credit for companies that produce at least part of a motion picture in Ohio and incur at least \$300,000 in Ohio-sourced production expenditures. The credit equals 30% of the company's Ohio-sourced expenditures for goods, services, and payroll involved in the production. The credit is transferrable and may be claimed against the commercial activities tax (CAT), the financial institutions tax (FIT), or

personal income tax. A company seeking the credit must first apply to the Director of Development Services for certification of the project as a "tax credit-eligible production." Then, upon completion of the production, the company must hire an independent certified public accountant to compile a report of the company's Ohio-sourced expenditures and apply to the Director for a tax credit certificate based on that amount.

Broadway theatrical productions

The bill extends eligibility for the motion picture tax credit to certain "Broadway theatrical productions" that are rehearsed or performed at a "qualified production facility" – which is defined by the bill as an Ohio facility that is used in the development or presentation to the public of live stage theater. A theatrical production qualifies for the credit if (1) the production is scheduled for presentation in New York City's Broadway Theater District after it is performed in Ohio (a "pre-Broadway production"), (2) the production is scheduled to be performed in Ohio for more than five weeks with an average of at least six performances per week (a "long run production"), or (3) the activities comprising the technical period of the production are conducted in Ohio before the beginning of a performance tour (a "tour launch").¹

The procedures for certifying Broadway theatrical productions as "tax credit-eligible" and awarding a tax credit certificate upon the completion of the production are mostly the same as those that apply to motion pictures. However, the bill makes a few adjustments to the information that is required to be submitted with the application for certification of the project (see, "**Application requirements**"). The bill also adjusts some of the terminology used throughout the law governing the tax credit to account for the inclusion of live stage theatrical productions. The term "motion picture company" is replaced with "production company" throughout R.C. 122.85. References to the "motion picture tax credit" are changed to "motion picture and Broadway theatrical production tax credit."²

Eligible expenditures

The bill broadens the types of expenses upon which the credit is based to include post-production, advertising, and promotional expenditures. Under current law, only expenditures for goods, services, and payroll used directly for the production itself may be included in computing the amount of the credit. The bill adjusts some terminology – replacing "eligible production expenditures" with "eligible expenditures" – to account

¹ R.C. 122.85(A)(6) through (10).

² R.C. 107.036, 5726.98, 5733.98, 5747.98, and 5751.98.



for the inclusion of post-production expenditures. The bill also requires the Director to adopt rules as to the specifics of what constitutes "post-production" activities.³

Application requirements

The bill makes several adjustments to the information that is required to be submitted in order for a motion picture or Broadway theatrical production to be certified as "tax credit-eligible." All applicants are required to submit an estimate of the amount of state and local taxes that will be generated from the project. Furthermore, in addition to the list of preproduction and production dates required under continuing law, the bill requires that the application include a list of the post-production dates associated with the motion picture or Broadway theatrical production.

If the application concerns a Broadway theatrical production, the application need not include the percentage of the production "being shot in Ohio" or the shooting script. In lieu of submitting an address for an Ohio production office, the company may provide the address of the qualified production facility at which the Broadway theatrical production will be rehearsed or performed. Lastly, the application must include a list of each scheduled performance of the production at the qualified production facility.⁴

Revoking certification

The bill requires the Director to revoke certification of any motion picture or Broadway theatrical production if the production process does not begin within six months after the production is certified as being eligible for the credit. Continuing law requires production companies to submit "sufficient evidence of reviewable progress" within 90 days of the eligibility certification and any time thereafter at the Director's request. The Director may (but is not required to) revoke a production's eligibility if a company fails to report sufficient progress. If eligibility is revoked, the company may reapply for the eligibility certification at any time.⁵

Awarding tax credit certificates

The bill requires the Director to award motion picture tax credit certificates in two rounds each fiscal year. The first round of applications would be approved no later than July 31, and the second round would be approved no later January 31. For each round, the Director must rank the applications on the basis of the extent of positive

³ R.C. 122.85(A)(4), (D), and (G).

⁴ R.C. 122.85(B).

⁵ R.C. 122.85(B).



economic impact a production would have and the effect of the production on developing a permanent Ohio workforce in the motion picture or theatrical production industries. Priority must be given to television series and miniseries "due to the long-term commitment typically associated with such productions." The Director would then award tax credit certificates to productions in the order of their ranking, starting with the productions that had the greatest economic and workforce development impact. If the amount of credits approved in the first application cycle equals the annual credit cap, there would be no second cycle for that year. The bill requires the Director to adopt rules prescribing a schedule and deadlines for applications to be submitted and reviewed.⁶

Current law specifies that applications concerning television series and miniseries are to be prioritized, but does not otherwise specify how and when certificates are to be awarded. Based on the Development Services Agency's website, it appears that the Director currently awards credits whenever they are available (i.e., when the annual credit cap resets) in the order in which applications are received.⁷

Effective date

The bill's modifications to the motion picture tax credit apply to FY 2019 and all subsequent years.⁸

HISTORY

ACTION	DATE
Introduced	02-22-18
Reported, H. Government Accountability and Oversight	05-22-18

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⁶ R.C. 122.85(C)(5) and (G)(1).

⁷ Ohio Development Services Agency, "Ohio Film Office – Tax Credit Overview and Frequently Asked Questions," <https://development.ohio.gov/filmoffice/Incentives.html> (last visited March 4, 2018).

⁸ Section 3.

