

## REPORTS ABOUT THE MBT FILM CREDIT

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### Senate Bills 796 and 889

**Sponsor:** Sen. Nancy Cassis

**House Committee:** Tax Policy

**Senate Committee:** Finance

**Complete to 2-8-09**

## A SUMMARY OF SENATE BILLS 796 AND 889 AS PASSED BY THE SENATE

The bills deal with the required reports from state agencies about the credits available under the Michigan Business Tax Act for the production of films, television programs, videos, interactive games, and similar works. The film credits have been available since 2008.

Senate Bill 796 would amend Section 455 of the Michigan Business Tax Act to do the following:

- **Require the Michigan Film Office to post a biannual report on its website** about tax credits to production companies for production expenditures. The report would have to be posted on January 15 and July 15 of each year and describe the number of applications for credits received in the past six months, including the names of the companies and a description of the proposed productions; the number of applications approved; and the number of postproduction certificates of completion issued during the previous six months and the total amount of credits certified.
- **Make information about qualified production expenditures available**, by excluding such information from company information that can be kept confidential. Currently certain information about commercial and financial operations and the intellectual property of a company is considered confidential. The bill would say that this confidentiality would not extend to any expenses that qualify as "qualified production expenditures" and for which a MBT credit can be claimed.
- **Require the State Film Office's annual report to include additional information** about people employed in the state by production companies that qualified for the credit, as well as the amount of other state and local assistance provided to those companies. Specifically, the bill would require the annual report to specify how many below-the-line crew were residents of the state and the total number of hours they worked; the number of above-the-line personnel employed and how many were residents of the state; and the number of individuals employed by eligible production companies that earned over \$250,000, and how many of those were state residents. The term "below-the-line crew" covers multiple production workers but excludes producers, directors, writers, actors, and similar personnel (who presumably are

above-the-line crew). This annual report, under the bill, would be sent to the House and Senate Fiscal Agencies, in addition to those who currently receive it.

- **Require the Department of Treasury to forward copies of postproduction certificates of completion** to the Governor, the president of the Michigan Strategic Fund, the chairs of the Senate Finance and House Tax Policy Committees, and the directors of the Senate and House Fiscal Agencies. The Film Office awards these certificates to production companies; they, in turn, send them to the Department of Treasury.
- **Require the Treasury Department to report refunded credits** to the same state officials. Specifically, this requires the reporting of those instances when the amount of a tax credit provided to a production company exceeds the company's tax liability (and so requires a refund to a company).

Senate Bill 889 makes a complementary amendment to the Revenue Act. It would require the State Treasurer to divulge information contained in postproduction certificates of completion and other information as required under Section 455 the MBT Act.

#### **BACKGROUND INFORMATION:**

Public Act 77 of 2008 amended the Michigan Business Tax Act to provide a credit for certain companies involved in the production in Michigan of motion pictures, television programs, music videos, interactive games, and similar productions. Credits are available to companies that apply to and enter into agreements with the Michigan Film Office and require the concurrence of the State Treasurer. The credits equal 42 percent of "direct production expenditures" for a production in a "core community;" 40 percent of those expenditures in a part of the state other than a core community; and 30 percent of "qualified personnel expenditures." The credit is refundable; that is, if it exceeds tax liability, the state pays the excess amount to the company. The credit became available for productions initiated after February 29, 2008. A credit becomes available to a firm when the State Film Office issues it a postproduction certificate of completion; the firm turns that certificate into the Department of Treasury.

The term "direct production expenditure" refers to a development, production, or postproduction expenditure, and it includes personnel expenditures for Michigan residents. The term "qualified personnel expenditure" refers to payments or compensation for "below-the-line crew" who are not residents of the state for at least 60 days prior to approval of the production. The term "below-the-line crew" covers multiple production workers but excludes producers, directors, writers, actors, and similar personnel.

Below-the-Line Crew. The term "below-the-line crew" refers to individuals such as a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator,

lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, and other similar personnel. The term does not include a producer, director, writer, actor, or other similar personnel.

**FISCAL IMPACT:**

As written, the bill would not have a significant State or local fiscal impact.

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