

END FILM CREDITS

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House Bill 4122 as enacted
Public Act 117 of 2015
Sponsor: Rep. Dan Lauwers
Committee: Tax Policy
Complete to 7-17-15

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4122, as enacted, amended Section 29h of the Michigan Strategic Fund Act to apply to the film and digital media production assistance program. The bill prevents the Michigan Film Office and the Michigan Strategic Fund from providing funding under a new agreement or from increasing funding by amending an existing agreement after the bill's effective date. Money remaining in the Michigan Film Promotion Fund ("the fund") after September 30, 2016, will revert back to the General Fund, less any outstanding payments and obligations.

FISCAL IMPACT: Funding for the film and digital media production assistance program has been appropriated out of the General Fund over the last few years. Originally, \$50 million was appropriated for the current fiscal year, which was also the amount of the previous year's appropriation. The appropriation for this fiscal year was reduced to \$38 million by the budget supplemental, Public Act 6 of 2015. For Fiscal Year 2015-16, beginning this October, \$25 million is appropriated for the fund, with a requirement that \$19.05 million be applied to retire outstanding bonds used to finance the construction of a film production facility, which were secured with State Public Employee Retirement System funds.

The only fiscal impact of this bill is a potential positive impact on the General Fund (GF). Under current law, any appropriation remaining in the fund at the end of the fiscal year does not lapse back to the GF (Section 29d, MCL 125.2029d). This bill would require that any money remaining in the fund at the end of Fiscal Year 2016 lapse back into the GF. After the required disbursement to the State Public Employee Retirement System, this inflow would be up to \$5.95 million. This year's budget also includes \$653,800 for Michigan Film Office administration; therefore, those costs will not reduce the amount returned to the GF.

THE APPARENT PROBLEM:

With budget pressures mounting from business tax credits issued during the last few years (e.g., the Michigan Economic Growth Authority), some believe the film credit program is a business incentive that is no longer affordable or sufficiently effective.

THE CONTENT OF THE BILL:

House Bill 4122, as enacted, amends Section 29h of the Michigan Strategic Fund Act. The bill prevents new funding for the Michigan Film Office and prohibits any increased funding from the amendment of existing agreements, for direct production expenditures, Michigan

personnel expenditures, crew personnel expenditures, or other qualified expenditures (as defined in Section 29h), after the effective date of the legislation.

At the end FY 2016, any money remaining in the Michigan Film Promotion Fund will revert back to the General Fund. The budget for this fiscal year requires that \$19.05 million of the fund's \$25 million appropriation be used to repay the State Public Employee Retirement System for losses incurred due to debt obligations incurred when securing bonds to build a film production facility. This specifically refers to a sound stage and film production facility which first opened in Pontiac in 2011. The facility defaulted on the bonds secured by the State Public Employee Retirement Systems in the following year.

House Bill 4122 also deletes certain required ratios of Michigan residents hired to non-residents hired on productions funded through the Michigan Film Promotion Fund; these ratios were to have taken effect from October 1, 2020 onward.

BACKGROUND INFORMATION:

The Michigan Film and Digital Media Production Incentive is the descendent of the Michigan Film and Digital Media Tax Credit program. The tax credit program ran from April 2008 through December 2011 as a part of the Michigan Business Tax (MBT) structure. When the MBT was repealed, the tax credit program was replaced by the current incentive program under the Michigan Strategic Fund Act (MSF). The key difference between the two programs lies in their funding. The former credit program provided refundable credits against a firm's MBT liability, based on certain film and digital media expenditures in the state, along with bonuses for filming in core communities.

The current film incentive program is appropriated annually by the legislature, and is not tied to any specific tax. These funds are distributed by the Michigan Economic Development Corporation, and any unspent funds remain with the Film Office at the end of the fiscal year.

ARGUMENTS:

For:

Critics say that the cost of the film incentive program can no longer be justified. From 2008 through 2013, the amount of tax credits and/or incentives awarded totaled \$300 million, while reportedly only 100 full-time jobs were added in this sector of the economy. This expenditure is not efficient enough to justify continuing the program, given the state's ongoing budget constraints.

Response:

Defenders of the program say that judging the film incentive programs by the number of jobs created over this time frame is not an accurate measure of success. During the Great Recession, employment in most sectors of the economy severely contracted. The fact that employment in the film industry expanded during this period shows that the program was working despite strong economic forces working against its success. These jobs were more likely to pay a living wage to local workers. This fact, coupled with the ancillary spending

in local communities, means that this program had positive economic impact in our state during difficult economic times.

For:

Critics also say that, in effect, through the use of these credits and incentives, the state is picking one industry for special treatment over others, as well as picking winners and losers among production companies and other firms. This is not an appropriate role for state government to take in the economy.

Response:

Program supporters say that credits are not limited to the film industry. The world of digital media (e.g., video games) is producing a rapidly expanding and diffuse market. These incentives help Michigan compete against other states for jobs in this growing and lucrative sector. This is in the state's long-term interest, and therefore the incentives are an appropriate state action.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.