Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1192 (Delegate Ivey)
Ways and Means

Income Tax - Theatrical Production Tax Credit

This bill creates a refundable credit against the State income tax for 25% of the qualified theatrical production costs incurred in the State. The Department of Commerce (Commerce) is required to administer the credit and may award a maximum of $10 million in credits in each fiscal year. **The bill takes effect July 1, 2020, and applies to tax years 2020 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $10.0 million annually beginning in FY 2021 due to credits claimed against the income tax. Administrative costs at the Comptroller's Office and Commerce may increase by $154,500 in FY 2021. Future year estimates reflect ongoing operating expenditures.

($ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	($10.0)	($10.0)	($10.0)	($10.0)	($10.0)
GF Expenditure	$0.2	$0.1	$0.1	$0.1	$0.1
Net Effect	($10.2)	($10.1)	($10.1)	($10.1)	($10.1)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local highway user revenues decrease to the extent credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A qualified theatrical production entity that meets specified requirements and is approved by Commerce may receive a refundable tax credit equal to 25% of qualified theatrical production costs incurred in the State. Any salary, wages, or other compensation for personal services of an individual who receives more than $100,000 per week in compensation for personal services in connection with any theatrical production activity may not be included in total direct costs. In order to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed $100,000.

The theatrical production entity must notify Commerce of its intent to seek the tax credit before the production activity begins. A theatrical production entity is also required to submit an application containing specified information, including the project's estimated total budget and the anticipated dates for carrying out the major elements of the theatrical production activity. The Secretary of Commerce may not award in the aggregate more than $2 million for a single theatrical production. Any amount of credits that are not awarded by Commerce in a fiscal year can be awarded in the next fiscal year. Commerce and the Comptroller must jointly adopt regulations implementing the tax credit application, approval, and monitoring processes.

"Theatrical production" is defined as a national touring production or pre-Broadway production that meets specified requirements.

Current Law: Theatrical productions do not qualify for a State tax credit. However, the program is similar to the film production activity tax credit as discussed below.

Background: A qualified film production entity that meets specified requirements and is approved by Commerce may receive a refundable tax credit equal to 25% of qualified film production costs incurred in the State. For a television series, the value of the credit is increased to 27%. The Secretary of Commerce may not award in the aggregate more than $10 million for a single film production activity. This limitation applies to each season of a television series.

A qualified small or independent film entity may receive a refundable income tax credit of up to 25%, with a maximum tax credit amount per project of $125,000. Commerce must award 10% of all tax credits in each fiscal year to qualified small or independent film entities.

In addition to the proliferation of film production tax credits in states over the last decade, a number of states, including Louisiana, New York, and Rhode Island, have also established tax credits for theatrical productions.

State Revenues: Tax credits may be claimed beginning in tax year 2020. As a result, general fund revenues decrease by $10.0 million annually beginning in fiscal 2021. This estimate assumes that Commerce awards the maximum authorized amount of credits in each fiscal year and tax credits are claimed against the personal income tax. To the extent tax credits are claimed against the corporate income tax, a portion of the tax credits claimed will decrease Transportation Trust Fund and Higher Education Investment Fund revenues.

State Expenditures: Administrative costs at the Comptroller's Office and Commerce may increase by $154,500 in fiscal 2021 and by $98,700 in fiscal 2025.

Commerce

Commerce requires one program administrator to process and approve the tax credit applications each year. Therefore, general fund expenditures increase by $98,500 in fiscal 2021. This estimate reflects the cost of hiring the administrator to certify tax credits and perform related tasks beginning July 1, 2020. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	$92,929
Other Operating Expenses	5,525
Total FY 2021 Expenditures	**$98,454**

Future year expenditures reflect salaries with annual increases and employee turnover as well as ongoing operating expenses.

Comptroller's Office

The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of $56,000 in fiscal 2021 to add the tax credit to personal income tax forms. This includes data processing changes to the income tax return processing and imaging systems and systems testing.

Additional Information

Prior Introductions: SB 360 of 2019, a similar bill, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Designated Cross File: SB 577 (Senator Guzzone, *et al.*) - Budget and Taxation.

Information Source(s): Department of Commerce; Comptroller's Office; Department of Legislative Services

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