

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 171

(Senator Guzzone)

Budget and Taxation

Income Tax - Theatrical Production Tax Credit

This bill creates a refundable credit against the State income tax for 25% of 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, 2021, and applies to tax years 2021 and beyond.**

Fiscal Summary

State Effect: General fund revenues may decrease by \$10.0 million annually beginning in FY 2022 due to credits claimed against the income tax. Administrative costs at the Comptroller's Office and Commerce may increase by \$161,500 in FY 2022 and by \$101,500 in FY 2026. Future year estimates reflect ongoing operating expenditures.

| (\$ in millions) | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
|------------------|----------|----------|----------|----------|----------|
| 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 credit amounts 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.

The tax credit program is not subject to termination.

Current Law: Theatrical productions do not qualify for a State tax credit. However, the program is similar to the film production activity tax credit. A qualified film production entity that meets specified requirements and is approved by Commerce may receive a refundable tax credit equal to up to 27% of qualified film production costs incurred in the State.

State Revenues: Tax credits may be claimed beginning in tax year 2021. As a result, general fund revenues decrease by \$10.0 million annually beginning in fiscal 2022. 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.

Theatrical productions have recently been delayed or canceled as a result of the COVID-19 pandemic. Production companies have scheduled performances beginning in late spring and early summer 2021. To the extent these performances are further delayed, revenue losses will be less than estimated in fiscal 2022. Any tax credit amounts that are not awarded can be awarded in the next fiscal year.

State Expenditures: Administrative costs for Commerce and the Comptroller’s Office may increase by \$161,500 in fiscal 2022 and by \$101,500 in fiscal 2026.

Commerce

Commerce requires one program administrator to process and approve the tax credit applications each year. Therefore, general fund expenditures increase by \$101,500 in fiscal 2022. This estimate reflects the cost of hiring the administrator to certify tax credits and perform related tasks beginning July 1, 2021. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|-----------------------------------|------------------|
| Position | 1 |
| Salary and Fringe Benefits | \$95,750 |
| Other Operating Expenses | <u>5,745</u> |
| Total FY 2022 Expenditures | \$101,495 |

Future year expenditures reflect a salary 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 \$60,000 in fiscal 2022 to add the tax credit to the 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 577 of 2020 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, HB 1192, received a hearing in the House Ways and Means Committee, but no further action was taken. 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: None.

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

Fiscal Note History: First Reader - January 17, 2021
rh/jrb

Analysis by: Robert J. Rehrmann

Direct Inquiries to:
(410) 946-5510
(301) 970-5510