

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 401
Ways and Means

(Delegate C. Howard, *et al.*)

Budget and Taxation

Income Tax - Film Production Activity Tax Credit - Minority Business Reporting Requirement

This bill requires the Department of Business and Economic Development (DBED) to report by January 1 of each year a list of the businesses that qualified as a Minority Business Enterprise (MBE) under State procurement law and directly provided goods or services to a film production entity that claimed the film production activity tax credit.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: None. DBED can meet the bill's reporting requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: DBED is required by January 1 of each year to submit a report to the Governor and General Assembly that details (1) the number of film production entities that submitted applications; (2) the number and amount of tax credit certificates issued by DBED; (3) the number of local technicians, actors, and extras hired for film production activity during the reporting period; (4) a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity; and (5) any other information that indicates economic benefits to the State resulting from film production activity.

Background:

Film Production Activity Tax Credit

Film production incentives have gained popularity in the past decade, with 37 states and the District of Columbia offering incentives in 2014. Maryland began offering financial assistance to encourage film production activities in 2001 and adopted the current film production activity tax credit beginning in 2012. A qualified film production entity that meets specified requirements and is approved by DBED may receive a refundable tax credit of up to 27% of the qualified direct costs of a film production activity.

Pursuant to the Tax Credit Evaluation Act of 2012, the Department of Legislative Services (DLS) evaluated the film production activity tax credit and made several recommendations in a draft report issued in November 2014. The DLS evaluation report concluded that the economic development activity generated by film productions is of a short duration. As soon as a film production ends, all positive economic impacts cease too. As such, the film production activity tax credit does not provide long-term employment. Maryland has provided \$62.5 million in tax credits between fiscal 2012 and 2016 while only receiving a fraction of the tax credit amounts back in revenues to the State and local governments. Additionally, states are fiercely competing with one another to draw productions into their state. This type of competition is not only expensive, but promotes unhealthy competition among states.

The cost of film incentives to states has risen dramatically as a result of both the increase in the number of states offering incentives and increase in the generosity of programs as states try to remain competitive with each other. With increased competition among states, Maryland's return on investment for film production incentives has decreased over time. When analyzing incentives in other states, it is clear that the economic benefits of film production activity tax credits cannot be sustained in the absence of continued significant funding of industry subsidies each year. Since the credit does not provide sustainable economic development and provides a small return on investment to the State and local governments, DLS recommended that the General Assembly allow the film production activity tax credit to sunset as scheduled on July 1, 2016.

If the General Assembly decides to extend the film production activity tax credit beyond July 1, 2016, the report includes several recommendations to improve the credit. These recommendations include requiring DBED to provide additional information about the tax credit. Considering the General Assembly's interest in providing business opportunities for small, minority- and women-owned businesses, DLS recommended that the General Assembly require DBED to report the number of these businesses that qualify. In addition, if the data collected suggests that these firms consist of only a small percentage of the

vendors, DBED should consider methods by which film production entities can provide opportunities for small, minority-, and women-owned businesses.

The DLS [evaluation](#) of the film production activity tax credit can be found on the DLS website.

Minority Business Enterprise Program

The State's MBE program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The biennial statewide MBE goal is established by the Special Secretary for the Governor's Office of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General. In a year in which there is a delay in establishing the overall goal, the previous year's goal applies. The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals for different minority groups recognized in statute. In a year in which there is a delay in issuing the guidelines, the previous year's guidelines apply.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Legislative Services

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