LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 4459

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 25, 2024

SUMMARY

Synopsis: Revises film and digital media content production tax credit program to allow certain production expenses to be eligible for tax credits.

Type of Impact: Annual State revenue decrease to the General Fund and Property Tax Relief Fund.

Agencies Affected: New Jersey Economic Development Authority. Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2024**	**FY 2025 through FY 2039**
Direct State Revenue Loss	No Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in decreased State revenues by increasing the amount of tax credits awarded under the State's film and digital media content production tax credit program.

- The bill will result in an indeterminate State revenue loss by expanding the digital media content production tax credit to allow credit amounts equal to 40 percent of qualified post-production expenses incurred at New Jersey film-lease partner facilities and 35 percent of expenses incurred through certain independent post-production companies. These credit percentages generally exceed the amounts allowed under current law. The amount of the revenue loss will depend on the number of taxpayers that will receive the increased credits for the qualified post-production expenses incurred by the taxpayer.

- The bill will also reduce State revenues by allowing wages paid to certain nonresident employees, who are not subject to New Jersey gross income tax due to a reciprocal agreement with another state, to be included as qualified film and digital media production expenses eligible for tax credits, thereby increasing the tax credit awarded to taxpayers that employ these persons in the performance of a film or digital media content production.

- By allowing certain tenants of New Jersey film-lease partner facilities to qualify for credits prior to the facilities receiving a temporary or final certificate of occupancy, provided that the tenants would have otherwise been eligible for the credits after the facility opened, the bill may shift the timing of certain tax credit awards under the program, thereby causing certain State revenue losses to occur sooner than otherwise anticipated.

- The OLS notes the bill does not change the current limitation on the total value of film tax credits and digital media content production tax credits, respectively, that may be awarded annually. Accordingly, the bill would reduce State revenues only to the extent that the annual value of tax credit awards is not otherwise capped by this limitation.

BILL DESCRIPTION

This bill makes various changes to certain provisions of law governing the Film and Digital Media Tax Credit Program. The bill increases the amount of digital media content production tax credits that may be awarded to taxpayers for qualified digital media content production expenses related to certain post-production services, including visual effects. Specifically, the tax credit would be equal to 40 percent of the qualified digital media content production expenses incurred for post-production services performed at a New Jersey film-lease production facility, provided that at least $500,000 of these expenses were incurred for services at the facility. The tax credit would also be equal to 35 percent of qualified digital media content production expenses incurred for post-production services performed by independent post-production companies. In either circumstance, if the taxpayer includes a diversity plan with their tax credit application, the tax credit may be increased by an additional four percent.

The bill also expands the scope of qualified film production expenses and qualified digital media content production expenses to include wages and salaries paid to individuals employed for the production who are not subject to New Jersey gross income tax due to a reciprocity agreement with another state. This would allow wages paid to certain Pennsylvania residents to be included.

Finally, the bill provides that certain tenants of New Jersey film-lease partner facilities that enter into multi-year leases for a minimum amount of space prior to the facility receiving a certificate of occupancy would be eligible for the tax credits allowed for New Jersey film-lease production companies, if the tenant satisfies all other program requirements.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an annual decrease in State revenues attributable to the issuance of increased tax credit awards under the State's film and digital media content production tax credit program, administered by the New Jersey Economic Development Authority. However, the OLS is unable to determine the magnitude of this fiscal impact due to insufficient information on the number and attributes of digital media projects and expenses that would newly qualify for tax credits under the bill.

The bill's expansion of the digital media content production tax credit to allow an increased credit amount for certain post-production services and expenses would result in an indeterminate increase in the total value of credits awarded under that portion of the program. The bill sets the value of credits for qualified post-production expenses incurred by a taxpayer, as follows: 40 percent for those expenses incurred at New Jersey film-lease partner facilities; and 35 percent for those expenses incurred through certain independent post-production companies. These amounts generally exceed the tax credit award rates allowed under current law, depending on expense type. Additionally, the bill broadens the scope of qualified digital media content production expenses to include the cost of post-production services, thereby increasing the total value of expenses on which digital media content production expenses may be awarded. The amount of the increase in credits awarded is indeterminate and would depend on the number of taxpayers that would qualify for the enhanced credits and the amount of their qualified expenses.

By allowing wages paid to certain nonresident employees, who are not subject to New Jersey gross income tax due to a reciprocal agreement with another state, to be included as qualified expenses, the bill may increase the total value of credits awarded under the program by an indeterminate amount thereby increasing the tax credit awarded to taxpayers that employ Pennsylvania residents in the performance of in-State film or digital media content productions. To the extent that compensation paid to Pennsylvania residents accounts for a small percentage of the total qualifying compensation paid by tax credit recipients, the OLS does not expect this allowance to result in a significant reduction in State revenues.

Allowing certain tenants of New Jersey film-lease partner facilities to qualify for tax credits prior to the facilities receiving a final or temporary certificate of occupancy may result in tax credits being awarded earlier than they otherwise would be, but would likely not have a significant impact on the overall value of credits granted under the program, assuming the tenants would have otherwise been eligible for the credits after the facility opened.

The bill does not change the current limitation on the total value of film tax credits and digital media content production tax credits, respectively, that may be awarded annually. Accordingly, the bill would reduce State revenues only to the extent that the annual value of tax credit awards is not otherwise capped by this limitation. In the case of digital media content production tax credits, the authority is permitted to award up to $30 million per year, except that any unallocated credits may be issued in a following year. During fiscal years 2021 through 2023, the authority issued no more than $7.9 million in credits during any year, and the remaining balance of unallocated digital media content production credits is roughly $96.9 million, as of April 2024. Because of this significant balance in authorized credit allocations, the OLS does not expect the State revenue losses attributable to the issuance of increased digital media content production tax credit, as provided in the bill, to be affected by the statutory limitation on credit awards. However, in the case of film production tax credits, the OLS notes that bill is not expected to reduce State revenues to a similar degree due, in part, to the fact that the authority maintains a significantly lower balance of authorized, but unallocated film production tax credits. Specifically, the remaining balance of unallocated film production credits is roughly $9.1 million, as of April 2024.

Section: *Revenue, Finance and Appropriations*

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).