

SENATE BILL 1160

By Norris

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, relative to tax credits for state-certified sound productions and to enact the "Tennessee Music Recording Investment Incentive Act."

WHEREAS, the general assembly finds it is necessary to supplement our state's status as a music recording center, to attract music recording from around the world, and to support and grow the existing infrastructure; and

WHEREAS, incentives attract private investment for the production of musical recordings or "sound recordings" in Tennessee; and

WHEREAS, we must develop a tax and capital infrastructure that encourages private investment and creates or sustains jobs. This tax infrastructure is to provide for state participation in the form of tax credits to encourage investment in state-certified sound recording productions; and

WHEREAS, it is necessary to develop a tax infrastructure utilizing tax credits that encourage investments in multiple state-certified production projects; and

WHEREAS, incentives will encourage increased employment opportunities within this sector and increased global competitiveness by fully utilizing economic development options within the music and sound recording industries; and

WHEREAS, incentives will encourage employment for the many graduates of the state's public and private educational institutions that are nationally recognized leaders in music industry education; now, therefore:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, is amended by adding Sections 2 through 4 as a new, appropriately designated part.

SECTION 2. This part shall be known and may be cited as the "Tennessee Music Recording Investment Incentive Act."

SECTION 3. Definitions.— As used in this part, unless the context otherwise requires:

(1) "Base investment" means the actual investment made and expended in the state by a state-certified production as production-related costs;

(2) "Commission" means the Tennessee film, entertainment and music commission;

(3) "Credit" means transferable tax credit;

(4) "Department" means the department of economic and community development;

(5) "Executive director" means the director of the Tennessee film, entertainment and music commission;

(6)

(A) "Sound recording" includes a:

(i) Music recording;

(ii) Film or television scoring and all related elements;

(iii) Post production;

(iv) Game audio and all related elements including, but not limited to, music and sound effects; and

(v) News media audio recorded in whole or in part in Tennessee;

(B) "Sound recording" does not include the audio portions of dialogue or words spoken and recorded as part of television news coverage or athletic events;

(7)

(A) "Sound recording production company" means a company engaged in the business of producing sound recordings as defined in this section.

(B) "Sound recording production company" does not include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, that is in default on a loan made or guaranteed by the state, or that has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of that bankruptcy; and

(8) "State-certified production" means a sound recording production, or a series of productions occurring over the course of a twelve-month period, and base investment related to the production or productions that are approved by the commission within ninety (90) days of the receipt by the commission of a complete application for initial certification of a production.

SECTION 4.

(a) Investor tax credit; state-certified productions.—

(1) There is authorized a credit against sales and use taxes due under title 67, chapter 6, against franchise taxes due under the Franchise Tax Law of 1999, compiled in title 67, chapter 4, part 21, and against excise taxes due under the Excise Tax Law of 1999, compiled in title 67, chapter 4, part 20, or against a stated sum total of these taxes, for investments made in state-certified

productions. The tax credit shall be earned by investors at the time expenditures are certified by the commission according to the total base investment certified for the sound recording production company per calendar year; provided, however, no credit shall be allowed under this section for any expenditures for which an incentive grant was provided under the Visual Content Act of 2006, compiled in part 49 of this chapter. Each investor shall be allowed a tax credit of fifteen percent (15%) of the qualified investment made by that investor in excess of fifteen thousand dollars (\$15,000) up to a maximum of two hundred thousand dollars (\$200,000) per company.

(2) Sound recording investor tax credits associated with a state-certified production shall never exceed the total base investment in that production.

(3)

(A) Except as otherwise provided in this subsection (a), the aggregate amount of credits certified for all investors pursuant to this section during any calendar year shall not exceed three million dollars (\$3,000,000).

(B) An application for initial certification of a project shall be submitted to the commission prior to the granting of the credit, and the granting of credits under this section shall be on a first-come, first-served basis.

(C) If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess will be treated as having been applied for on the first day of the subsequent year.

(b) Certification and administration.—

(1) The department shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5, to determine which projects and expenditures, including amounts expended in this state on state-certified infrastructure projects, qualify according to this part. When determining which projects qualify, the department shall take the following factors into consideration:

(A) The impact of the production on the objectives of this part;

(B) The impact of the production on the employment of Tennessee residents; and

(C) The economic impact of the production on the overall economy of the state.

(2) Application.—

(A) An applicant for the sound recording investor tax credit shall submit an application for initial certification to the commission. For state-certified productions the application shall include:

(i) The distribution plan;

(ii) A preliminary budget including estimated Tennessee payroll and estimated base investment;

(iii) A description of the type of sound production to be recorded, such as compact disc, news media audio, film scoring, film post production, game audio, and other types of recordable sound productions;

(iv) A list of the principal creative elements including performing artist and producer;

(v) The name and address of the recording studio or other location where the recording production will take place;

(vi) A statement that the production will qualify as a state-certified production; and

(vii) Estimated start and completion dates.

(B) If the application is incomplete, additional information may be requested prior to further action by the commission.

(C) The department shall submit its initial certification of a project as a state-certified production or a state-certified sound recording infrastructure project to investors and to the commissioner of revenue.

(D) Prior to any certification of the state-certified production, the sound recording production company shall submit to the commission, a budget of anticipated project. The commission shall review the expenditures and shall issue a tax credit certification letter to the investors indicating the amount of tax credits certified for the state-certified production. The actual amount of tax credits issued will be based upon the actual expenditure.

(3) The executive director, in consultation with the department of revenue, shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5, as are necessary to carry out the intent and purposes of this part.

(4) With input from the department of revenue, the department shall prepare a written report to be submitted to the finance, ways and means committees of the senate and house of representatives before February 1 of each year. The report shall include the overall impact of the tax credits, the

amount of the tax credits issued, the number of new jobs created, the amount of Tennessee payroll created, and any other factors that describe the impact of the programs.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.