



LEGISLATIVE FISCAL OFFICE

Fiscal Note

ACT 144

Fiscal Note On: **SB 106** SLS 15RS 233

Bill Text Version: **ENROLLED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

| | |
|---------------------------------------------------------------------|--------------------------------|
| Date: June 25, 2015 11:07 AM | Author: MORRELL |
| Dept./Agy.: Department of Revenue | Analyst: Deborah Vivien |
| Subject: Retroactive recapture allowance against individuals | |

TAX/TAXATION

EN SEE FISC NOTE GF RV See Note

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Requires recovery of motion picture investor tax credits issued in violation of the tax credit law or its administrative interpretation and those issued to an investor convicted of a criminal violation related to such tax credits. (gov siq)

Current law provides a transferable income tax credit for 30% of qualified expenditures related to motion picture production with an additional 5% for payroll of Louisiana residents. Claiming the credit requires submission of an audit report of qualified expenditures for the motion picture tax credits by a certified accountant. Proposed law requires registration for the sale of credits, expands eligible motion pictures to include those viewed through any digital platform, expands eligible expenses to include marketing and defines project completion as completion of principal photography or as determined by the Office of Entertainment Industry Development. Projects may apply once for final certification or twice if post-production occurs in LA. Any required verification audits are at the expense of the filer. Qualifying expenditures must occur within 12 months prior or 24 months after initial certification, and final certification must be filed within 6 months of the initial certification period. Carryforward of credits is reduced from ten years to five years. A company may name an irrevocable designee (bank or other lender) that may be issued the credits directly or present them for buy-back. Bad faith and criminal conviction related to credits are stipulated as cause for disqualification and/or recapture of credits, with prescription for recapture. Bill includes application deadline for infrastructure credits of 12/31/15, with issuances ending 7/1/17. Production impacts effective with TY2016.

| EXPENDITURES | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

| REVENUES | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | | | | | | |

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

NOTE: Bill is contingent upon written notice provided by the Division of Administration and the Legislative Auditor that offset to tax increases passed during this session were sufficient.

REVENUE EXPLANATION

Though the bill changes various aspects of the film program, none of the changes are readily quantifiable. While some are procedural, some changes serve to expand the program while others limit the program or allow potentially more successful collection efforts.

The bill makes numerous changes to the film credit program including expanding definitions to allow the program to include additional expenditures for marketing and films made for viewing on all digital platforms. The bill also allows a motion picture company to assign credits directly to a bank or "other lender." Deadlines are placed on credits that will allow the state's obligation to eventually cease where current law provides no such end. Final production credits must be applied for within 30 months of initial certification and final infrastructure credits must be applied for by 12/31/15 with the last issuance prior to 7/1/17. In addition, the carryforward of credits is reduced from 10 years to 5 years.

The Department of Revenue may act to recapture credits in instances of bad faith, though prescription is stipulated in the bill. This would include wage garnishment, seizure of assets and bank account levies, among other methods.

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|-----------------------------------------------------------------------------|----------------------------|--------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|----------------------------------------------------------|
| Senate | <u>Dual Referral Rules</u> | House | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} | Gregory V. Albrecht Chief Economist |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 Rev. Red. to State {H & S} | | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | | |