

2016 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 52

BY REPRESENTATIVE STOKES AND SENATOR MORRELL

TAX CREDITS: Provides for the Legislative intent of Act No. 425 from the 2015 Regular Session of the Legislature

1 A CONCURRENT RESOLUTION

2 To express the intent of the legislature regarding Act No. 425 of the 2015 Regular Session
3 of the Legislature.

4 WHEREAS, R.S. 24:177(B)(2)(b) provides that the "legislature may express the
5 intended meaning of a law in a duly adopted concurrent resolution, by the same vote and,
6 except for gubernatorial veto and time limitations for introduction, according to the same
7 procedures and formalities required for enactment of that law; and

8 WHEREAS, during the 2015 Regular Session of the Legislature, Act No. 425 was
9 enacted into law and provided that, with respect to the motion picture production tax credit
10 authorized pursuant to the provisions of R.S. 47:6007, individuals receiving payments for
11 the performance of services used directly in production activities which are claimed as a
12 production expenditure for purposes of certification of tax credits shall be deemed to be
13 receiving Louisiana taxable income regardless of whether the payments are made directly
14 or indirectly through an agent or agency, loan-out company, a personal service company, an
15 employee of a leasing company, or other entity. Furthermore, the company or entity making
16 the payments for services used directly in a production activity are considered to be paying
17 compensation taxable by the state of Louisiana and such companies or entities shall withhold
18 taxes from those payments at the highest individual income tax rate of six percent, or the
19 highest individual income tax rate in effect at the time of performance of the services; and

20 WHEREAS, R.S. 47:6007(B)(14) defines "payroll" as all salary, wages, and other
21 compensation of any kind whatsoever, including but not limited to services, benefits, per

1 diem, housing, box rentals and any other type of benefit paid, provided, or rendered to an
2 individual for services relating to a state-certified production and for which taxes are
3 withheld and remitted to the Department of Revenue in accordance with R.S. 47:164(D)(2)
4 and taxable in this state as verified by the office through the use of information which may
5 be provided to them upon request by the office from the Louisiana Workforce Commission,
6 or the Department of Revenue. Furthermore, the term "payroll" shall exclude any portion
7 of an individual salary in excess of three million dollars; and

8 WHEREAS, R.S. 47:6007(B)(1) defines "above the Line services" or "ATL services"
9 as services such as those of a producer, executive producer, line producer, coproducer,
10 assistant producer, actor, director, casting director, screenwriter, and other services of job
11 positions performed by personnel of the production that are associated with the creative or
12 financial control of a production and customarily considered as above the line services in the
13 film and television industry.

14 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
15 express its intent regarding the meaning of the language in Act No. 425 of the 2015 Regular
16 Session of the Legislature relative to the the withholding of Louisiana income taxes on the
17 payroll of individuals receiving payments for the performance of services used directly in
18 production activities which are claimed as a production expenditure for purposes of
19 certification of motion picture production tax credits be limited to payroll of entities
20 performing "above the Line services" or "ATL services".

21 BE IT FURTHER RESOLVED that the provisions amended and reenacted during
22 the 2015 Regular Session of the Legislature in R.S. 47:164(D) and 6007(B)(8) which was
23 renumbered by the Law Institute as 6007(B)(14) and (D)(5) shall be applicable to
24 compensation paid to individuals receiving payments for the performance of services used
25 directly in production activities which are claimed as a production expenditure for purposes
26 of certification of tax credits for above the line services.

27 BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted
28 to the secretary of the Department of Revenue, the secretary of the Department of Economic
29 Development, and to the Director of the Louisiana Workforce Commission.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 52 Original

2016 Regular Session

Stokes

Present law (R.S. 24:117(B)(2)) authorizes the legislature to express the intended meaning of a law in a duly adopted concurrent resolution, by the same vote and, except for gubernatorial veto and time limitations for introduction, according to the same procedures and formalities required for enactment of that law.

Present law (R.S. 47:164(D) and 6007(B)(14) and (D)(5)) which was amended and reenacted pursuant to Act No. 425 of the 2015 R. S. of the Legislature provided that, with respect to the motion picture production tax credit, individuals receiving payments for the performance of services used directly in production activities which are claimed as a production expenditure for purposes of certification of tax credits shall be deemed to be receiving La. taxable income regardless of whether the payments are made directly or indirectly through an agent or agency, loan-out company, a personal service company, an employee of a leasing company, or other entity. Furthermore, the company or entity making the payments for services used directly in a production activity are considered to be paying compensation taxable by La. and such companies or entities shall withhold taxes from those payments at the highest individual income tax rate in effect at the time of performance of the services.

Proposed resolution expresses the intent of the legislature regarding the meaning of language in Act No. 425 of the 2015 R. S. of the Legislature relative to the withholding of La. income taxes on the payroll of individuals receiving payments for the performance of services used directly in production activities which are claimed as a production expenditure for purposes of certification of motion picture production tax credit be limited to payroll of individuals performing "above the Line services" or "ATL services".

Requires a copy of this Resolution be transmitted to the secretary of the Dept. of Revenue, the secretary of the Dept. of Economic Development, and to the Director of the La. Workforce Commission.