LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4448

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

Synopsis: Revises various provisions of film and digital media content production tax credit program.

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) determines that the bill will have an indeterminate impact on State revenues. While expanding the film and digital media content production tax credit program to include certain wages paid to nonresident employees as qualified expenses will likely decrease revenues, other changes such as reallocating unused tax credits from other programs to the film tax credit program and modifying certain eligibility criteria may increase or decrease revenue losses depending on taxpayer behavior. The amount of the State revenue loss is indeterminate and will depend on the number of taxpayers claiming the enhanced tax credits and the proportion of their qualified expenses attributable to compensation paid to employees not subject to New Jersey gross income tax due to reciprocity agreements with other states.

- The magnitude of the revenue impact will depend on several factors, including the number of taxpayers claiming the enhanced tax credits, the proportion of their qualified expenses attributable to compensation paid to employees not subject to New Jersey gross income tax due to reciprocity agreements, the amount of unused tax credits from other incentive programs that are reallocated to the film tax credit program, and the extent to which taxpayers modify their activities in response to the bill's provisions.

- By allowing wages paid to certain out-of-state residents, such as Pennsylvania residents employed in New Jersey, to be included as qualified expenses, the bill will likely increase the total amount of tax credits awarded to taxpayers that employ these individuals in the production of films or digital media content in the State.

BILL DESCRIPTION

This bill amends certain provisions of law governing the Film and Digital Media Tax Credit Program to expand the scope of qualified film production expenses and qualified digital media content production expenses to include wages and salaries paid to nonresident employees who are not subject to New Jersey gross income tax due to a reciprocity agreement with another state, such as Pennsylvania. The bill provides that these expenses would include payments made by a taxpayer to a loan out company for services performed in New Jersey by individuals who are employed by the loan out company and whose wages and salaries are subject to withholding but not subject to tax under the New Jersey Gross Income Tax Act due to the provisions of a tax reciprocity agreement with another state. Additionally, the bill amends the definition of "full-time or full-time equivalent employee" under the tax credit program to include otherwise eligible individuals whose wages and salaries are not subject to tax under the New Jersey Gross Income Tax Act due to the provisions of a tax reciprocity agreement with another state.

The bill also makes several other changes to the Film and Digital Media Tax Credit Program. It allows unused tax credits from the Aspire and Emerge programs to be made available for the provision of film tax credits to a broader range of taxpayers, subject to certain limitations. The bill modifies eligibility requirements for reality shows and the calculation of digital media content production expenses. It allows certain digital media content production expenses incurred for post-production services to qualify for enhanced tax credit percentages.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will have an indeterminate impact on State revenues. Expanding the tax credit program to allow wages paid to certain nonresident employees, particularly Pennsylvania residents, to be included as qualified film and digital media content production expenses will likely increase the total amount of expenses that are eligible for tax credits. This change would result in larger tax credit amounts being awarded, leading to greater revenue losses, holding all other factors constant.

The OLS notes that, under the bill, unused tax credits from the Aspire and Emerge programs are to be made available for taxpayers receiving credits under the film tax credit program, subject to certain limitations. The bill also makes various modifications to the definitions and eligibility criteria under the film tax credit program, which could affect taxpayer behavior and the types of expenses that qualify. Depending on how taxpayers respond, these changes may serve to increase or decrease the amount of credits awarded.

Therefore, the net effect of the bill on State revenues is uncertain, as it will depend on the interactions between the expansion of eligible expenses, the reallocation of unused credits from other programs, and taxpayer response to the modified program requirements. More information would be needed on the potential credit amounts involved and taxpayer behavior to quantify the revenue impact with greater certainty.

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.).