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Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Smith and Rulli

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SUMMARY

- Authorizes a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.
- Requires a company to apply to the Department of Development for the credit, which is awarded on a first-come, first-served basis, up to $1 million per fiscal year.
- Sunsets the credits at the end of 2026.

DETAILED ANALYSIS

Sound recording investment credit

The bill authorizes individual owners of a sound recording production company that is a sole proprietorship or a pass-through entity to claim a refundable personal income tax credit equal to a percentage of the company's costs for certain projects related to sound and music recording productions, up to $75,000. Specifically, the credit is available for sound recording productions, excluding productions for television news coverage and athletic events, and for projects to construct or improve infrastructure for creating such productions.[1] The credit may be claimed only if awarded by the Director of Development as part of a two-step application process, described below. No more than $1 million in such credits may be awarded by the Director for any fiscal year. Credits would be awarded on a first-come, first-served basis.[2] No such credit may be awarded for taxable years beginning after 2026.[3]

[1] R.C. 122.852(A).

[2] R.C. 122.852(D).

[3] R.C. 122.852(C)(4).

First step: certification

Before investors may receive a credit, the Director of Development must first certify the production or project as credit-eligible based on the sound recording production company's application. An applicant for certification of a sound recording production must furnish details such as the production's distribution plan and budget, a description of the recording and recording artists, and the production's estimated start and completion dates.[4] Similarly, an applicant for certification of a capital project must furnish details such as a description and the location of the project, the project's budget, and the project's estimated start and completion dates.[5]

The bill requires the Director to reject the application or certify the production or project as credit-eligible and notify the applicant of that decision within 180 days after receiving the application. Upon certifying a production or project, the Director must notify the Tax Commissioner and each of the individual investors. Rejection is required if the applicant or any affiliate of the applicant either owes a certified debt to the state or has discharged such a debt through bankruptcy.[6] When weighing whether to certify a production or project, the bill requires the Director to consider all of the following:

- Its impact on the development of a strong infrastructure base in Ohio to achieve a more independent, self-supporting sound recording industry;
- Its impact on the employment of Ohio residents;
- Its overall impact on Ohio's economy;
- If the application is for a tax credit on the basis of a capital project, the availability of similar infrastructure facilities within 50 miles of the proposed capital project.[7]

Second step: credit application

Upon completion of a certified recording production or capital project, the sound recording production company may apply to the Director to receive a certificate entitling the company's individual investors to claim a refundable tax credit. With the application, the company is required to report its Ohio expenditures for the production or project, which determines the amount of the tax credit. Specifically, the credit is based on the cost of acquiring property or services in Ohio that are subject to the state's sales or use tax and the Ohio payroll that is subject to the state's personal income tax (these are referred to in the bill

[4] R.C. 122.852(B)(1)(a).

[5] R.C. 122.852(B)(1)(b).

[6] R.C. 122.852(B)(2).

[7] R.C. 122.852(B)(3).

as "eligible expenditures").[8] The Director may require the accounting of eligible expenditures to be prepared by a certified public accountant.

Upon receiving the application and accounting of eligible expenditures, the Director may examine the company's records to audit the accuracy of reported expenditures and reduce the ultimate credit amount by the cost of the audit. The Director may disallow any reported expenditures that the Director determines are not eligible expenditures, but must notify the company of the reason for any such disallowance.

If a company's production or project qualifies for the credit, the Director must calculate the amount of the credit on the basis of eligible expenditures reported by the company, less any such disallowed expenses or auditing costs. The total amount of credit for any production or project equals the lesser of $75,000 or 25% of eligible expenditures in excess of $10,000. Once the credit is calculated, the Director must divide the amount among the company's investors in proportion to their ownership shares and issue a certificate to each of them indicating the amount of the investor's credit.

The sound production credit may not be awarded on the basis of eligible expenditures that also form the basis of a motion picture tax credit authorized by existing law.[9]

The bill requires the Director to forward a copy of each tax credit certificate to the Tax Commissioner.[10] As a condition of receiving a credit, the Director may require the credit-eligible production to display the state's name or logo.[11]

Claiming the credit

Each individual investor receiving a tax credit certificate is required to claim the corresponding income tax credit for the individual's taxable year that includes the date the certificate was issued. If the amount of the credit exceeds the investor's tax liability for that year, the excess credit amount is refunded to the investor.[12] The Commissioner may make an assessment against an investor for the portion of any credit claimed that the Commissioner later discovers was based upon an expenditure that was not an eligible expenditure.[13]

Rules; budget reporting

The bill authorizes the Director, in consultation with the Tax Commissioner, to adopt rules necessary to administer the sound recording production tax credit program. The rules are

[8] R.C. 122.852(A)(1) and (C).

[9] R.C. 122.852(C).

[10] R.C. 122.852(E).

[11] R.C. 122.852(H).

[12] R.C. 5747.67 and 5747.98.

[13] R.C. 122.852(G).

exempt from a law that limits the number of regulatory restrictions that certain agencies, including the Department of Taxation, may adopt.[14]

The bill adds the credit to the list of business-related tax incentives that must be included in the Governor's executive budget proposal, for the purpose of accounting for the amount of credits that might be authorized or claimed in the fiscal biennium and the amount that remain outstanding thereafter.[15]

Report to the General Assembly

The bill requires the Director to prepare a report of the program each even-numbered year through 2028 and send a copy of that report to the chair and ranking minority members of the House and Senate standing committees dealing primarily with issues of taxation. Each report must include the credits' economic effect, the amount of credits awarded, the number of new jobs created and amount of payroll created as a result of the credits, and the quantity of new Ohio sound recording infrastructure that has been developed.[16]

HISTORY

Action	Date
Introduced	10-11-23

ANSB0171IN-135/ts

[14] R.C. 122.852(E).

[15] R.C. 107.036.

[16] R.C. 122.852(F).