

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 1051

(Senator Kasemeyer, *et al.*)

Budget and Taxation

Ways and Means

Business and Economic Development - Film Production Activity Tax Credit Program

This bill increases from \$7.5 million to \$18.5 million the total amount of tax credits the Department of Business and Economic Development (DBED) may award in fiscal 2015 to qualified film production entities under the film production activity tax credit.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund revenues decrease by \$11.0 million in FY 2015 due to the expansion of the tax credit. The Governor’s proposed FY 2015 budget assumes a decrease of \$3.5 million in general fund revenues in FY 2015 due to the expansion of the credit. No effect on expenditures.

(\$ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	(\$11.0)	\$0	\$0	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	(\$11.0)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Chapter 516 of 2011 converted the existing Film Production Rebate Program into a tax credit. A qualified film production entity that

meets specified requirements and is approved by DBED may receive a tax credit equal to 25% of qualified film production costs incurred in the State. For a television series, the value of the credit is increased to 27%. If the amount of the tax credit exceeds the total tax liability in the tax year, the entity can claim a refund in the amount of the excess. In order to qualify for the tax credit, the estimated total direct costs incurred in the State must exceed \$500,000.

Chapter 28 of 2013 increased from \$7.5 million to \$25.0 million the total amount of tax credits DBED may award in fiscal 2014 to qualified film production entities. Chapter 28 also extended the termination date of the credit by two years to July 1, 2016, and provided \$7.5 million in funding in each of fiscal 2015 and 2016.

Any salary, wages, or other compensation for personal services of an individual who receives more than \$500,000 in salary, wages, or other compensation for personal services in connection with any film production activity may not be included in total direct costs.

The film production entity must notify DBED of its intent to seek the tax credit before the production activity begins. A film production entity is also required to submit an application containing specified information, including the project's estimated total budget and the anticipated dates for carrying out the major elements of the film production activity.

“Film production activity” is defined as the production of a film or video product that is intended for nationwide commercial distribution and includes a(n) feature film, television project, commercial, infomercial, corporate film, music video, digital project, animation project, or multimedia project. Film production activity does not include a student film; noncommercial personal video; sports broadcast; broadcast of a live event; talk show; video, computer, or social networking game; or pornography.

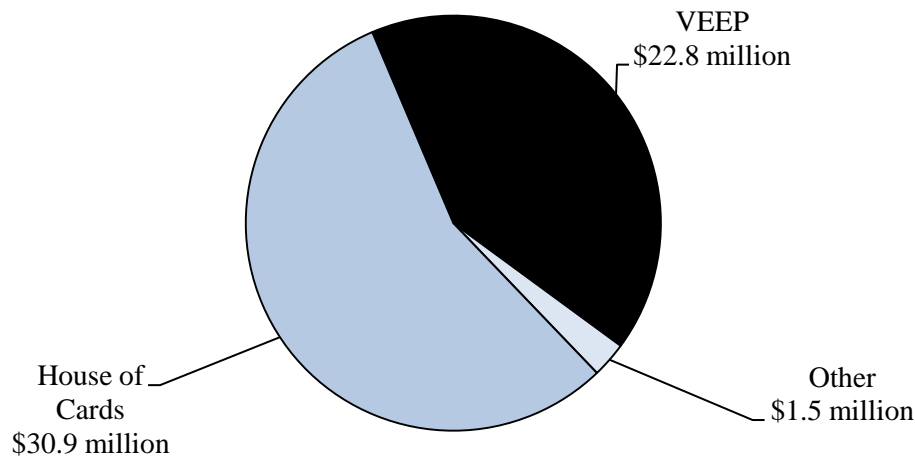
State/Local Revenues: The bill increases the total amount of film production tax credits DBED may award in fiscal 2015 from \$7.5 million to \$18.5 million. As a result, general fund revenues decrease by \$11.0 million in fiscal 2015. It is estimated that DBED will award the maximum amount of credits allocated, and that the additional credit amounts in fiscal 2015 will be awarded and claimed against the personal income tax in calendar 2014.

To the extent credits are claimed against the corporate income tax, Transportation Trust Fund (TTF) and Higher Education Investment Fund revenues will decrease. Local governments receive a portion of TTF revenues in the form of local highway user revenues for the purpose of constructing and maintaining local roads. Accordingly, local

highway user revenues will decrease as a result of any credits claimed against the corporate income tax.

Small Business Impact: In the *2013 Maryland Film Production Activity Tax Credit Report*, DBED provides a breakdown of the total credits awarded under the program to date as well as tax credits that are currently encumbered through fiscal 2016. The report states that the \$32.5 million total increase in funding provided to the program by Chapter 28 was necessary to retain the filming of two television series, *House of Cards* and *VEEP*. DBED advises that all of the program funds (\$55.0 million) through fiscal 2016 have been committed to productions. **Exhibit 1** shows the distribution of the tax credits by production, not including the increased funding proposed by the bill. DBED notes that it has a letter of intent for the filming of the third season of *House of Cards*. Based on this letter of intent, \$4.0 million has been committed to the production, although the report notes that it qualifies for \$15.0 million in credits.

Exhibit 1
Distribution of Maryland Film Production Tax Credits
Fiscal 2012-2016



Source: Department of Business and Economic Development, Department of Legislative Services

According to DBED, small businesses benefit as film production companies use local vendors for purchases. In addition, the Maryland Film Office reports an increased interest from other production firms to locate in Maryland and “if this is sustained, it will surely lead to the creation of a cluster of related industries, which has a ripple effect in job creation, larger consumer base, and revenue collection.”

DLS notes that the primary beneficiaries of the tax credit are the film production entities and that the majority of tax credits have been awarded to or encumbered for companies that are not Maryland small businesses. An increase in local film production expenditures leads to additional purchases from local vendors, an unknown number of which are small businesses. Economic analyses of film production tax credits conclude that only a portion of tax credits provided to film productions is recaptured in State and local tax revenues. The Maryland Constitution requires the Governor to submit, and the General Assembly to pass, a balanced budget. Any benefit to small business local vendors as a result of increased tax credits must be measured against the negative impact to small businesses from decreases in State spending or increased taxes.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 520 ((Chair, Ways and Means Committee) (By Request - Departmental - Business and Economic Development) - Ways and Means)), is not identical.

Information Source(s): Department of Business and Economic Development, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2014
ncs/jrb

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