

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** L. Louise Lucas

2. **Bill Number** SB 923

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Motion Picture Production Tax Incentives;
Extension of Sunset Dates and Technical
Changes

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would extend the sunset date for the Motion Picture Production Tax Credit from January 1, 2022 to January 1, 2027. This bill would also extend the sunset date for the media-related sales and use tax exemption for certain tangible and intangible property used in the production of an audiovisual work from July 1, 2022 to July 1, 2027.

If enacted during the 2020 Regular Session, this bill would be effective on July 1, 2020.

This is a Virginia Tourism Authority bill.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department"), Virginia Film Office, and Virginia Tourism Authority consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

Because the extension of the sunset date for the credit and sales and use tax exemption is assumed in the official General Fund revenue forecast, these provisions would have no impact on General Fund revenue. In addition, the provisions regarding the Virginia Tourism Authority's responsibilities with respect to the credit would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Film Office
Virginia Tourism Authority

10. Technical amendment necessary: No.

11. Other comments:

Motion Picture Production Tax Credit

During the 2011 Session, the General Assembly enacted the Motion Picture Production Tax Credit. This credit consists of a series of refundable individual and corporate income credits for motion picture production companies that meet certain criteria. A motion picture production company with qualifying expenses of at least \$250,000 may receive a credit equal to 15 percent of qualifying expenses or 20 percent of qualifying expenses if the production is filmed in an economically distressed area of Virginia.

A motion picture production company may receive an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film in Virginia when total production costs in Virginia are at least \$250,000, but not more than \$1 million. This additional credit is equal to 20 percent of the total aggregate payroll of such residents when total production costs in Virginia exceed \$1 million.

A motion picture production company may also receive an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as actors or members of a production crew in connection with the production of a film in Virginia.

“Qualifying expenses” are defined as the sum of the following amounts spent in Virginia by a production company for the production of a motion picture film or an episodic television series filmed in Virginia:

- Goods and services leased or purchased.
- Compensation and wages of up to \$1 million per individual for personal services with respect to a single motion picture production.

The aggregate amount of all credits that may be allocated to taxpayers is capped at \$6.5 million per fiscal year.

Film Tax Credits in Other States

Thirty-two states and the District of Columbia allow film tax incentives. Eighteen states (Alaska, Arizona, Delaware, Florida, Idaho, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, New Hampshire, North Dakota, South Dakota, Vermont, West Virginia, Wisconsin and Wyoming) do not provide film tax incentives.

Media-Related Sales and Use Tax Exemption

Beginning July 1, 1995 and ending July 1, 2022, Virginia exempts the equipment, parts and accessories used in the production of audiovisual works, as well as

- The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or audiovisual work for the purpose of using or incorporation into an audiovisual work;
- The provision of production services or fabrication in connection with an audiovisual work; or
- The transfer or use of tangible personal property incident to the performance of such services or fabrication.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session. In addition, this requirement does not apply to the Motion Picture Production Tax Credit.

Further, during the 2012 Session, the General Assembly enacted House Bill 246, which prohibits legislation from adding a new credit or renewing an existing credit unless the legislation contains a sunset date of not longer than five years from the effective date of the new or renewed credit.

Proposed Legislation

This bill would extend the sunset date of the Motion Picture Production Tax Credit from January 1, 2022 to January 1, 2027. This bill would also make the Virginia Tourism Authority responsible for all portions of the credit that are currently the responsibility of the Virginia Film Office. This bill would require the Virginia Tourism Authority to annually report to the Department the amount of credits that have been authorized for each fiscal year and the amount of credits that may be claimed for the current fiscal year by each taxpayer.

Under current law taxpayer are required to claim this credit on a tax return filed for the taxable year in which the Virginia production activities are completed. This bill would allow the Virginia Tourism Authority to issue and a taxpayer to claim Motion Picture Production Tax Credits in future fiscal years other than the taxable year in which the Virginia production activities are completed. The Virginia Tourism Authority would only be required to certify the final credit amount to the taxpayer and the Tax Commissioner in the taxable year in which the Virginia production activities are completed. Such certificate would specify the fiscal year in which such credit may be refunded by the Department. The

Department would be prohibited from paying interest on any prospective or future credits issued.

This bill would also extend the sunset date for the sales and use tax exemption on the equipment, parts and accessories used in the production of certain audiovisual works, as well as (i) the lease, rental, license, sale, other transfer, or use of any audio or video tape, film or audiovisual work for the purpose of using or incorporation into an audiovisual work; (ii) the provision of production services or fabrication in connection with an audiovisual work; or (iii) the transfer or use of tangible personal property incident to the performance of such services or fabrication from July 1, 2022 to July 1, 2027.

If enacted during the 2020 Regular Session, this bill would be effective on July 1, 2020.

Similar Bills

House Bill 1318 is identical to this bill.

cc : Secretary of Finance

Date: 3/20/2020 RWC
SB923FER161