

Legislative Analysis



MOTION PICTURE PRODUCTION TAX BENEFITS

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House Bills 5204 and 5208

Sponsor: Rep. Bill Huizenga

House Bill 5205

Sponsor: Rep. Roger Kahn

House Bill 5207

Sponsor: Rep. Virgil Smith

House Bill 5206

Sponsor: Rep. Fulton Sheen

House Bill 5209

Sponsor: Rep. Richard Ball

Committee: Tax Policy

Complete to 10-24-05

A SUMMARY OF HOUSE BILLS 5204 - 5209 AS INTRODUCED 9-21-05

Generally speaking, the bills provide tax benefits to motion picture production companies. House Bills 5204-5207 are tie-barred to each other.

House Bill 5204 (Sales Tax) and House Bill 5205 (Use Tax)

The bills would amend the General Sales Tax Act (MCL 205.54bb) and Use Tax Act (205.94z), respectively, to provide a motion picture company with a credit equal to the amount of sales tax and use tax paid, if the company has spent at least \$250,000 in the state for purposes related to the filming or production of a single motion picture, and the tangible personal property subject to taxation is used exclusively as an integral part of the production activities in the state.

The credits would only be available to production companies that begin production after the bills' effective date, and would be available through the end of 2006. Works of an obscene nature would not be eligible for the credits.

House Bill 5206 (Single Business Tax)

The bill would amend the Single Business Tax Act (MCL 208.35d) to provide an SBT credit to a motion picture production company that spends at least \$250,000 in the state for purposes related to the filming or production of a single motion picture.

The credit would be equal to 130 percent of the company's tax liability attributable to the filming or production of a motion picture in the state, and would be available for tax years that begin before January 1, 2007. The credit would not apply to the filming of a motion picture of an obscene nature.

If the credit and any unused carryforward exceed the taxpayer's tax liability, the excess would not be refundable but could be carried forward for 10 years or until the excess is

exhausted, whichever occurs first. Additionally, a taxpayer could assign all or a portion of the credit. If the taxpayer both claims and assigns portions of the credit, the taxpayer would claim its portion in the tax year in which the activity occurs. The assignee would have to claim the credit in the same year in which the credit was assigned.

House Bill 5207 and 5208 (Single Business Tax)

Both bills would amend the Single Business Tax Act (MCL 208.35e) to add definitions for "motion picture", "motion picture production company", and "obscene matter or an obscene performance." The definitions are identical to those used in House Bill 5204 and 5205 for the sales and use tax acts.

The bill would define "motion picture" to mean a feature-length film distributed in at least two states and that is not required under federal law (18 USC 2257) to maintain certain production records regarding "performers" in the production, or a television series made in the state in whole or in part for theatrical or television viewing or as a television pilot. It would not include the production of television coverage of news and sporting events. [The federal law referenced in the bill requires records on the performers in a film or videotape, among other media, that contains actual sexually explicit conduct.]

"Obscene matter or an obscene performance" would need to meet all of the following conditions: (1) the average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex; (2) the matter or performance depicts or describes, in a patently offensive way, sexual conduct; and (3) the matter or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.

House Bill 5209

The bill would amend the History, Arts, and Libraries Act (MCL 399.721) to require the state film office to adopt policies and standards for making state-owned property available to be used free of charge for film and television production in the state.

FISCAL IMPACT:

The fiscal impact of these bills depends on the current and new economic activity generated in the State of Michigan by motion picture production companies. Between \$2 and \$20 million (annually) was spent in Michigan by motion picture production companies over the last four years.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.