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Senate Bill 1178 (as enacted)
House Bills 5852, 5853, and 5854 (as enacted)
Sponsor: Senator Tupac A. Hunter (S.B. 1178)
Representative Dave Hildenbrand (H.B. 5852)
Representative Kathleen Law (H.B. 5853)
Representative Ed Clemente (H.B. 5854)
Senate Committee: Commerce and Tourism
House Committee: Commerce

PUBLIC ACT 76 OF 2008
PUBLIC ACTS 81, 82, & 83 OF 2008

Date Completed: 4-24-08

CONTENT

Senate Bill 1178 and House Bills 5852, 5853, and 5854 amended various statutes to provide for State officials to authorize the use of State property without charge for the purpose of producing a film.

Senate Bill 1178 amended the Management and Budget Act; House Bill 5852 amended the Michigan Military Act; House Bill 5853 amended the Natural Resources and Environmental Protection Act; and House Bill 5854 amended Public Act 286 of 1964, which provides for the organization, powers, and duties of the State Transportation Commission and the Michigan Department of Transportation.

The bills took effect on April 8, 2008.

Specifically, the bills allow certain State officials to authorize a person engaged in the production of a film in Michigan to use, without charge, property owned by or under the control of the official's department or commission for the purpose of producing a film under terms and conditions established by the official. The economic and other benefits to the State of film production located in Michigan must be considered to be the value received by the State in exchange for the use of property owned by or under the control of the department or commission.

Senate Bill 1178 applies to the Director of the Department of Management and Budget (DMB), who may authorize the use of property owned by or under the control of the DMB or a State agency. House Bill 5852 applies to the Adjutant General (the Director of the Department of Military and Veterans Affairs), who may authorize the use of property owned by or under the control of that Department. House Bill 5853 applies to the Director of the Department of Natural Resources (DNR), who may authorize the use of property owned by or under control of the DNR. House Bill 5854 applies to the Director of the Department of Transportation and the Transportation Commission, either of whom may authorize the use of property owned by or under the control of the Commission.

The Department Directors or Transportation Commission may not authorize the use of property owned by or under the control of the Departments or Commission for the production of a film that includes obscene matter or an obscene performance, or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257. (That Federal provision requires anyone who produces a film, videotape, or other matter containing visual depictions of actual sexual conduct, that is produced for interstate or foreign shipment or transportation, to create and maintain individually identifiable records pertaining to

every performer portrayed in the visual depiction.)

The Departments and the Commission must cooperate with the Michigan Film Office by giving it information about potential film locations owned by or under the control of the Department or Commission and the use of such property.

Under the bills, "film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or video tape, including a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

"Obscene matter or an obscene performance" means matter described in Public Act 343 of 1984. (Public Act 343 prohibits disseminating, or possessing with intent to disseminate, any obscene material. Under that Act, "obscene" means any material that meets the following criteria:

- The average individual, applying "contemporary community standards", would find the material, taken as a whole, appeals to the prurient interest.
- The reasonable person would find the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- The material depicts or describes sexual conduct in a patently offensive way.

"Contemporary community standards" means the customary limits of candor and decency in this State at or near the time of the alleged violation of Public Act 343.)

MCL 18.1125 (S.B. 1178)
MCL 32.837 (H.B. 5852)
MCL 324.512 (H.B. 5853)
MCL 247.806b (H.B. 5854)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1178

The bill will affect State expenditures to the extent that use of State property for film production requires additional expenditures on the part of the State, such as expenditures to relocate employees from a work area temporarily or changes in employees' work hours. Similarly, the bill might affect the timing of State revenue collections to the extent that use of State facilities for film production interferes with activities that result in the collection of revenue, such as operation of a Secretary of State branch office or a processing area in Treasury. Otherwise, the bill will have no impact on State revenue.

House Bill 5852

The bill will have an indeterminate, though potentially significant, fiscal impact on the Department of Military and Veterans Affairs. The potential costs to the Department vary widely, and will depend upon whether the Adjutant General chooses to allow a filmmaker to use Department property, as the bill allows, and upon the nature of the property requested by the filmmaker.

The bill will have a significant fiscal impact on the Department if the Adjutant General allows a filmmaker to use Department property that includes sophisticated and costly military equipment such as helicopters or other similar military equipment. In the case of a helicopter, for example, the cost for the Department to operate a Blackhawk helicopter is \$4,578.88 per hour; for a Chinook helicopter, \$8,546.13. Under the bill, should the Adjutant General allow the use of such equipment, the Department will be required to absorb the cost.

House Bill 5853

The bill will result in a small and indeterminate loss of restricted funds for the State. If the Director of the Department of Natural Resources chooses to waive the land user charges for films produced in State parks or forests, the Park Improvement Fund or the Forest Land User Fund will experience foregone revenue depending on the number of films produced and the length of time used for filming.

House Bill 5854

Any fiscal impact of this bill will be minimal to nonexistent.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.