

## END FILM CREDITS

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**House Bill 4122 (passed by the House as H-2)**  
**Sponsor: Rep. Dan Lauwers**  
**Committee: Tax Policy**  
**Complete to 5-18-15**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 4122 (H-2) would amend Section 29h of the Michigan Strategic Fund Act. The bill adds new language to prevent the Michigan Film Office from providing new funding, or from increasing funding by amending existing agreements, to the film and digital media production assistance program, on and after October 1, 2015 (i.e. after the current fiscal year). Money remaining in the Michigan Film Promotion Fund ("the fund") after that point will revert back to the General Fund, where it "shall only be used to repay state public employee retirement systems for any losses incurred due to construction or operation of a qualified facility."

MCL 125.2029h

**FISCAL IMPACT:** Funding for the film and digital media production assistance program has been appropriated out of the General Fund over the last few years. Originally, \$50 million was appropriated for the current fiscal year, which was also the amount of the previous year's appropriation. The appropriation for this fiscal year was reduced to \$38 million by the budget supplemental PA 6 of 2015. The executive budget recommendation for Fiscal Year 2015-16 seeks to appropriate \$50 million again, while the House version of the FY 16 budget eliminates the film incentives entirely.

The primary fiscal impacts of this bill are the potential positive impacts on the State Public Employee Retirement System and the General Fund (GF). Under current law, any appropriation remaining in the fund at the end of the fiscal year does not lapse back to the GF (section 29d, MCL 125.2029d). This bill would require that any money remaining in the fund at the end of FY 16 lapse back into the GF, where it would first be used to repay the State Public Employee Retirement System, with the remainder staying in the GF.

## **THE APPARENT PROBLEM:**

With budget pressures mounting from business tax credits issued during the last few years, e.g., the Michigan Economic Growth Authority, the film credit program is an additional business incentive that may not be affordable or effective given the state's ongoing budget constraints. In addition to this, public pension funds were used to secure bonds for the construction of a sound stage and film production facility. This legislation would replenish the State Public Employee Retirement System in the amount lost due to the failure of this project.

## ***THE CONTENT OF THE BILL:***

House Bill 4122, substitute H-2, would amend Section 29h of the Michigan Strategic Fund Act. The bill adds language that would stop the Michigan Film Office from providing new funding, or increasing funding by amending existing agreements, for direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, or other qualified expenditures (as defined in section 29h), on and after October 1, 2015 (i.e. after the current fiscal year). Any funding or credit agreements entered into by the Film Office between the enacting date of this legislation and the end of this fiscal year must be related to qualified expenses that occur during Fiscal Year 2015-16.

At the end FY 2016, any money remaining in the Michigan Film Promotion Fund will revert back to the General Fund, where it "shall only be used to repay State Public Employee Retirement Systems for any losses incurred due to construction or operation of a qualified facility." This specifically refers to a sound stage and film production facility which first opened in Pontiac in 2011. The facility defaulted on bonds secured by the State Public Employee Retirement Systems in the following year.

## ***BACKGROUND INFORMATION:***

The Michigan Film and Digital Media Production Incentive is the descendent of the Michigan Film and Digital Media Tax Credit program. The tax credit program ran from April 2008 to December 31, 2011, as a part of the Michigan Business Tax (MBT) structure. When the MBT was repealed, the tax credit program was replaced by the current incentive program under the Michigan Strategic Fund Act (MSF). The key difference between the two programs lies in their funding. The former credit program provided refundable credits against a firm's MBT liability, based on certain film and digital media expenditures in the state, along with bonuses for filming in core communities.

The current film incentive program is appropriated annually by the legislature, and is not tied to any specific tax. These funds are distributed by the Michigan Economic Development Corporation, and any unspent funds remain with the Film Office at the end of the fiscal year.

## ***ARGUMENTS:***

### ***For:***

Critics say that the cost of the program can no longer be justified. From 2008 through 2013, the amount of tax credits and/or incentives given out by the program approached \$300 million, while only 100 full time jobs were added in this sector of the economy. This expenditure is not efficient enough to justify continuing the program, given the state's ongoing budget constraints.

### ***Response:***

Defenders of the program say that judging the film incentive programs by the number of jobs created over this time frame is not an accurate measure of success. During the Great Recession, employment in most sectors of the economy severely contracted. The fact that

employment in the film industry expanded during this period shows that the program was working despite strong economic forces working against its success. These jobs were more likely to pay a living wage to local workers. This fact, coupled with the ancillary spending in local communities, means that this program had positive economic impact in our state during difficult economic times.

***For:***

Critics also say that, in effect, these through the use of these credits and incentives, the state is picking one industry for special treatment over others, as well as picking winners and losers amongst production companies and other firms. This is not an appropriate role for state government to take in the economy.

***Response:***

Program supporters say that credits are not limited to the film industry. Digital media (e.g., video games) is a rapidly expanding and diffuse market. These incentives help Michigan compete against other states for jobs in this growing and lucrative sector. This is in the state's interest, and therefore the incentives are an appropriate state action.

***POSITIONS:***

Michigan Chamber of Commerce testified in support of House Bill 4122.

Representatives of the Mackinac Center testified in support of the bill.

Coalition Against Higher Taxes and Special Interest Deals testified in support.

National Federation of Independent Business testified in support of the bill.

The Teamsters/ Teamsters Local 337 Detroit testified in opposition to House Bill 4122.

Oakland County Film Office testified in opposition.

Media Arts Coalition of West Michigan testified in opposition.

Motion Picture Association testified in opposition.

International Alliance of Theatrical Stage Employees 38 Oakland County testified in opposition.

Media Arts Coalition of West Michigan testified in opposition.

Family and Film Workers testified in opposition to House Bill 4122.

Legislative/ Fiscal Analyst: Adam Desrosiers

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