

IL H 5005, Enacted

Illinois

SUMMARY: Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Electricity Excise Tax Law, the Telecommunications Excise Tax Act, the Simplified Municipal Telecommunications Tax Act, and the Gas Use Tax Law to make conforming changes; amends the Economic Development for a Growing Economy Tax Credit Act.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

02/07/2024 INTRODUCED.

02/08/2024 To HOUSE Committee on RULES.

02/28/2024 To HOUSE Committee on STATE GOVERNMENT ADMINISTRATION.

03/06/2024 From HOUSE Committee on STATE GOVERNMENT ADMINISTRATION: Do pass.

03/07/2024 In HOUSE. Placed on Short Debate Calendar Second Reading.

04/11/2024 In HOUSE. Read second time.

04/11/2024 In HOUSE. Placed on Short Debate Calendar Third Reading.

04/16/2024 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

04/17/2024 To SENATE Committee on ASSIGNMENTS.

05/01/2024 To SENATE Committee on EXECUTIVE.

05/01/2024 In SENATE. Rule 2-10 Committee Deadline Established As May 10, 2024.

05/10/2024 In SENATE. Rule 2-10 Committee Deadline Established As May 17, 2024.

05/15/2024 In SENATE. Committee Amendment No. 1 filed. Referred to ASSIGNMENTS.

05/15/2024 In SENATE. Floor Amendment No. 1 filed. Referred to ASSIGNMENTS.

05/15/2024 From SENATE Committee on ASSIGNMENTS: Referred to SENATE Committee on Executive Amendment No. 1.

05/15/2024 Committee amendment adopted Amendment No. 1.

05/15/2024 From SENATE Committee on EXECUTIVE: Do pass as amended.

05/15/2024 In SENATE. Placed on Calendar Order Second Reading.

05/16/2024 In SENATE. Read second time.

05/16/2024 In SENATE. Placed on Calendar Order Third Reading.

05/17/2024 In SENATE. Rule 2-10 3rd Reading Deadline Established As May 24, 2024.

05/24/2024 In SENATE. Rule 2-10 3rd Reading Deadline Established As May 25, 2024.

05/25/2024 In SENATE. Floor Amendment No. 2 filed. Referred to ASSIGNMENTS.

05/25/2024 In SENATE. Rule 2-10 3rd Reading Deadline Established As May 26, 2024.

05/26/2024 From SENATE Committee on ASSIGNMENTS: Approved for consideration-Amendment No. 2.

05/26/2024 In SENATE. Floor Amendment No. 3 filed. Referred to ASSIGNMENTS.

05/26/2024 In SENATE. Floor Amendment No. 4 filed. Referred to ASSIGNMENTS.

05/26/2024 From SENATE Committee on ASSIGNMENTS: Approved for consideration-Amendment No. 3.

05/26/2024 From SENATE Committee on ASSIGNMENTS: Approved for consideration-Amendment No. 4.
05/26/2024 In SENATE. Recalled to second reading.
05/26/2024 In SENATE. Read second time. Adopted Amendment No. 2.
05/26/2024 In SENATE. Read second time. Adopted Amendment No. 3.
05/26/2024 In SENATE. Read second time. Adopted Amendment No. 4.
05/26/2024 In SENATE. Placed on Calendar Order Third Reading.
05/26/2024 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.
05/26/2024 In HOUSE. Placed on Calendar Order of Concurrence - Amendment No. 1, 2, 3, 4.
05/28/2024 In HOUSE. Motion filed to concur in Amendment No. 1, 2, 3, and 4. Motion referred to HOUSE Committee on RULES.
05/28/2024 From HOUSE Committee on RULES: Referred to HOUSE Committee on Executive Motion to concur in Amendment No. 1, 2, 3, and 4.
05/28/2024 From HOUSE Committee on EXECUTIVE: Approved for consideration - motion to concur in Amendment No. 1, 2, 3, and 4.
05/28/2024 HOUSE concurred in Senate Amendment No. 1, 2, 3, and 4.
05/28/2024 Passed Both Houses.
06/06/2024 *****To GOVERNOR.
06/26/2024 Signed by GOVERNOR.
06/26/2024 Public Act No. 595

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session: Illinois 103rd General Assembly

cite: 2023 IL H 5005

Enacted

June 26, 2024

Blair-Sherlock

Public Act 103-0595

HB5005 Enrolled

AN ACT concerning State government.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

TEXT OMITTED, DOES NOT PERTAIN TO FILM

Section 23. The Illinois Income Tax Act is amended by changing Section 213 as follows:

(35 ILCS 5/213)

Sec. 213. Film production services credit.

(a) For tax years beginning on or after January 1, 2004, a taxpayer who has been awarded a tax credit under the Film Production Services Tax Credit Act or under the Film Production Services Tax Credit Act of 2008 is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined by the Department of Commerce and Economic Opportunity under those Acts. If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(b) Beginning July 1, 2024, taxpayers who have been awarded a tax credit under the Film Production Services Tax Credit Act of 2008 shall pay to the Department of Commerce and Economic Opportunity, after determination of the tax credit amount but prior to the issuance of

a tax credit certificate pursuant to Section 35 of the Film Production Services Tax Credit Act of 2008, a fee equal to 2.5% of the credit amount awarded to the taxpayer under the Film Production Services Tax Credit Act of 2008 that is attributable to wages paid to nonresidents, as described in Section 10 of the Film Production Services Tax Credit Act of 2008, and an additional fee equal to 0.25% of the amount generated by subtracting the credit amount awarded to the taxpayer under the Film Production Services Tax Credit Act of 2008 that is attributable to wages paid to nonresidents from the total credit amount awarded to the taxpayer under that Act. All fees collected under this subsection shall be deposited into the Illinois Production Workforce Development Fund. No tax credit certificate shall be issued by the Department of Commerce and Economic Opportunity until the total fees owed according to this subsection have been received by the Department of Commerce and Economic Opportunity.

(c) A transfer of this credit may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity. Beginning July 1, 2023 **and through June 30, 2024**, if a credit is transferred under this Section by the taxpayer, then the transferor taxpayer shall pay to the Department of Commerce and Economic Opportunity, upon notification of a transfer, a fee equal to 2.5% of the transferred credit amount eligible for nonresident wages, as described in Section 10 of the Film Production Services Tax Credit Act of 2008, and an additional fee of 0.25% of the total amount of the transferred credit that is not calculated on nonresident wages, which shall be deposited into the Illinois Production Workforce Development Fund.

(d) The Department, in cooperation with the Department of Commerce and Economic Opportunity, must prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

(e) The credit may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

(Source: P.A. 101-9, eff. 6-5-19; 102-558, eff. 8-20-21.)

Section 27. The Film Production Services Tax Credit Act of 2008 is amended by changing Sections 10 and 46 as follows:

(35 ILCS 16/10)

Sec. 10. Definitions. As used in this Act:

"Accredited production" means: (i) for productions commencing before May 1, 2006, a film, video, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production, in the period that ends 12 months after the time principal filming or taping of the production began, exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of less than 30 minutes; and (ii) for productions commencing on or after May 1, 2006, a film, video, or television production that has been certified by the Department in which the Illinois production spending included in the cost of production in the period that ends 12 months after the time principal filming or taping of the production began exceeds \$100,000 for productions of 30 minutes or longer or exceeds \$50,000 for productions of less than 30 minutes. "Accredited production" does not include a production that:

- (1) is news, current events, or public programming, or a program that includes weather or market reports;
- (2) is a talk show **produced for local or regional markets;**
- (3) **(blank); is a production in respect of a game, questionnaire, or contest;**
- (4) is a sports event or activity;
- (5) is a gala presentation or awards show;
- (6) is a finished production that solicits funds;
- (7) is a production produced by a film production company if records, as required by 18 U.S.C. 2257, are to be

maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or

(8) is a production produced primarily for industrial, corporate, or institutional purposes.

"Accredited animated production" means an accredited production in which movement and characters' performances are created using a frame-by-frame technique and a significant number of major characters are animated. Motion capture by itself is not an animation technique.

"Accredited production certificate" means a certificate issued by the Department certifying that the production is an accredited production that meets the guidelines of this Act.

"Applicant" means a taxpayer that is a film production company that is operating or has operated an accredited production located within the State of Illinois and that (i) owns the copyright in the accredited production throughout the Illinois production period or (ii) has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the production, where the owner of the copyright is not an eligible production corporation.

"Credit" means:

(1) for an accredited production approved by the Department on or before January 1, 2005 and commencing before May 1, 2006, the amount equal to 25% of the Illinois labor expenditure approved by the Department. The applicant is deemed to have paid, on its balance due day for the year, an amount equal to 25% of its qualified Illinois labor expenditure for the tax year. For Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department, in an accredited production commencing before May 1, 2006 and approved by the Department after January 1, 2005, the applicant shall receive an enhanced credit of 10% in addition to the 25% credit; and

(2) for an accredited production commencing on or after May 1, 2006 and before January 1, 2009, the amount equal to:

(i) 20% of the Illinois production spending for the taxable year; plus

(ii) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department; and

(3) for an accredited production commencing on or after January 1, 2009, the amount equal to:

(i) 30% of the Illinois production spending for the taxable year; plus

(ii) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Illinois labor expenditure" means salary or wages paid to employees of the applicant for services on the accredited production.

To qualify as an Illinois labor expenditure, the expenditure must be:

(1) Reasonable in the circumstances.

(2) Included in the federal income tax basis of the property.

(3) Incurred by the applicant for services on or after January 1, 2004.

(4) Incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage.

(5) Limited to the first \$25,000 of wages paid or incurred to each employee of a production commencing before May 1, 2006 and the first \$100,000 of wages paid or incurred to each employee of a production commencing on or after May 1, 2006 and prior to July 1, 2022. For productions commencing on or after July 1, 2022, limited to the first \$500,000 of wages paid or incurred to each eligible nonresident or resident employee of a production company or loan out company that provides in-State services to a production, whether those wages are paid or incurred by the production company, loan out company, or both, subject to withholding payments provided for in

Article 7 of the Illinois Income Tax Act. For purposes of calculating Illinois labor expenditures for a television series, the eligible nonresident wage limitations provided under this subparagraph are applied to the entire season. For the purpose of this paragraph (5), an eligible nonresident is a nonresident whose wages qualify as an Illinois labor expenditure under the provisions of paragraph (9) that apply to that production.

(6) For a production commencing before May 1, 2006, exclusive of the salary or wages paid to or incurred for the 2 highest paid employees of the production.

(7) Directly attributable to the accredited production.

(8) (Blank).

(9) Prior to July 1, 2022, paid to persons resident in Illinois at the time the payments were made. For a production commencing on or after July 1, 2022, paid to persons resident in Illinois and nonresidents at the time the payments were made.

For purposes of this subparagraph, if the production is accredited by the Department before the effective date of this amendatory Act of the 102nd General Assembly, only wages paid to nonresidents working in the following positions shall be considered Illinois labor expenditures: Writer, Director, Director of Photography, Production Designer, Costume Designer, Production Accountant, VFX Supervisor, Editor, Composer, and Actor, subject to the limitations set forth under this subparagraph. For an accredited Illinois production spending of \$25,000,000 or less, no more than 2 nonresident actors' wages shall qualify as an Illinois labor expenditure. For an accredited production with Illinois production spending of more than \$25,000,000, no more than 4 nonresident actor's wages shall qualify as Illinois labor expenditures.

For purposes of this subparagraph, if the production is accredited by the Department on or after the effective date of this amendatory Act of the 102nd General Assembly, wages paid to nonresidents shall qualify as Illinois labor expenditures only under the following conditions:

(A) the nonresident must be employed in a qualified position;

(B) for each of those accredited productions, the wages of not more than 9 nonresidents who are employed in a qualified position other than Actor shall qualify as Illinois labor expenditures;

(C) for an accredited production with Illinois production spending of \$25,000,000 or less, no more than 2 nonresident actors' wages shall qualify as Illinois labor expenditures; and

(D) for an accredited production with Illinois production spending of more than \$25,000,000, no more than 4 nonresident actors' wages shall qualify as Illinois labor expenditures.

As used in this paragraph (9), "qualified position" means: Writer, Director, Director of Photography, Production Designer, Costume Designer, Production Accountant, VFX Supervisor, Editor, Composer, or Actor.

(10) Paid for services rendered in Illinois.

"Illinois production spending" means the expenses incurred by the applicant for an accredited production, **but does not include any monetary prize or the cost of any non-monetary prize awarded pursuant to a production in respect of a game, questionnaire, or contest. "Illinois production spending" includes, including,** without limitation, all of the following:

(1) expenses to purchase, from vendors within Illinois, tangible personal property that is used in the accredited production;

(2) expenses to acquire services, from vendors in Illinois, for film production, editing, or processing; and

(3) for a production commencing before July 1, 2022, the compensation, not to exceed \$100,000 for any one employee, for contractual or salaried employees who are Illinois residents performing services with respect to the accredited production. For a production commencing on or after July 1, 2022, the compensation, not to exceed \$500,000 for any one employee, for contractual or salaried employees who are Illinois residents or nonresident employees, subject to the limitations set forth under Section 10 of this Act.

"Loan out company" means a personal service corporation or other entity that is under contract with the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" does not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or

transportation.

"Qualified production facility" means stage facilities in the State in which television shows and films are or are intended to be regularly produced and that contain at least one sound stage of at least 15,000 square feet.

Rulemaking authority to implement Public Act 95-1006, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 102-558, eff. 8-20-21; 102-700, eff. 4-19-22; 102-1125, eff. 2-3-23.)

(35 ILCS 16/46)

Sec. 46. Illinois Production Workforce Development Fund.

(a) The Illinois Production Workforce Development Fund is created as a special fund in the State Treasury. Beginning **July 1, 2023** ~~July 1, 2022~~, amounts paid to the Department of Commerce and Economic Opportunity pursuant to Section 213 of the Illinois Income Tax Act shall be deposited into the Fund. The Fund shall be used exclusively to provide grants to community-based organizations, labor organizations, private and public universities, community colleges, and other organizations and institutions that may be deemed appropriate by the Department to administer workforce training programs that support efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce in the film industry.

(b) Pursuant to Section 213 of the Illinois Income Tax Act, ***taxpayers who have been awarded a tax credit under this Act shall pay to the Department of Commerce and Economic Opportunity, after determination of the tax credit amount but prior to the issuance of a tax credit certificate, a fee equal to 2.5% of the credit amount awarded to the taxpayer under the Film Production Services Tax Credit Act of 2008 that is attributable to wages paid to nonresidents, as described in Section 10 of the Film Production Services Tax Credit Act of 2008, and an additional fee equal to 0.25% of the amount generated by subtracting the credit amount awarded to the taxpayer under the Film Production Services Tax Credit Act of 2008 that is attributable to wages paid to nonresidents from the total credit amount awarded to the taxpayer under that Act. All fees collected under this subsection shall be deposited into the Illinois Production Workforce Development Fund. No tax credit certificate shall be issued by the Department of Commerce and Economic Opportunity until the total fees owed according to this subsection have been received by the Department of Commerce and Economic Opportunity. ~~the Fund shall receive deposits in amounts not to exceed 0.25% of the amount of each credit certificate issued that is not calculated on out-of-state wages and transferred or claimed on an Illinois tax return in the quarter such credit was transferred or claimed. In addition, such amount shall also include 2.5% of the credit amount calculated on wages paid to nonresidents that is transferred or claimed on an Illinois tax return in the quarter such credit was transferred or claimed.~~***

(c) At the request of the Department, the State Comptroller and the State Treasurer may advance amounts to the Fund on an annual basis not to exceed \$1,000,000 in any fiscal year. The fund from which the moneys are advanced shall be reimbursed in the same fiscal year for any such advance payments as described in this Section. The method of reimbursement shall be set forth in rules.

(d) Of the appropriated funds in a given fiscal year, 50% of the appropriated funds shall be reserved for organizations that meet one of the following criteria. The organization is: (1) a minority-owned business, as defined by the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; (2) located in an underserved area, as defined by the Economic Development for a Growing Economy Tax Credit Act; or (3) on an annual basis, training a cohort of program participants where at least 50% of the program participants are either a minority person, as defined by the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, or reside in an underserved area, as defined by the Economic Development for a Growing Economy Tax Credit Act.

(e) The Illinois Production Workforce Development Fund shall be administered by the Department. The Department may adopt rules necessary to administer the provisions of this Section.

(f) Notwithstanding any other law to the contrary, the Illinois Production Workforce Development Fund is not subject to sweeps, administrative charge-backs, or any other fiscal or budgetary maneuver that would in any way

transfer any amounts from the Illinois Production Workforce Development Fund.

(g) By June 30 of each fiscal year, the Department must submit to the General Assembly a report that includes the following information: (1) an identification of the organizations and institutions that received funding to administer workforce training programs during the fiscal year; (2) the number of total persons trained and the number of persons trained per workforce training program in the fiscal year; and (3) in the aggregate, per organization, the number of persons identified as a minority person or that reside in an underserved area that received training in the fiscal year.

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

Section 99. Effective date. This Act takes effect upon becoming law, except that Section 17 takes effect July 1, 2025.