

REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

(Caskey, Hosey, Whitmire, Lowe, and Weeks - Staff Contact: Teesha Trapp)

HOUSE BILL 4020

H. 4020 -- Reps. W. Newton, Erickson, Herbkersman, Stavrinakis, Bradley, Elliott, Murphy, Wetmore, B. Newton, Bannister and G.M. Smith: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-62-50, RELATING TO THE TAX REBATE FOR CERTAIN MOTION PICTURE PRODUCTION COMPANIES, SO AS TO INCREASE THE ANNUAL LIMIT, AND BY ALLOWING THE USE OF REBATES FOR CERTAIN EXPENDITURES AND EXPENSES; AND BY REPEALING SECTION 12-62-60 RELATING TO DISTRIBUTION OF ADMISSIONS TAXES FOR REBATES TO MOTION PICTURE PRODUCTION COMPANIES AND CERTAIN DEPARTMENTAL EXPENSES.

Received by Ways and Means:

February 23, 2023

Summary of Bill:

This bill repeals Section 12-62-60 and increases the total annual rebate to thirty-million dollars. It allows for unused rebates to be carried forward and used for up to three additional years. In addition, it allows a rebate to the motion picture production company up to thirty percent of the company's expenditures, excluding payroll subject to the tax rebates in this section.

This bill authorizes the Department of Parks, Recreation, and Tourism to use a portion of the rebate allotment to fund the operations for the South Carolina Film Commission and for the promotion of collaborative production and educational efforts

Estimated Revenue Impact:

The fiscal impact is estimated to result in a net decrease to General Fund in the amount of \$9,343,120 for FY2023-24. [Film Commission would have received 26 percent (\$10,656,880) of projected \$40,988,000 admission tax in FY 2022-23. This bill instead increases rebates by \$20,000,000 resulting in the net General Fund revenue impact of \$9,343,120.]

Other Notes/Comments:

Received **FAVORABLE REPORT with AMENDMENT** from Economic Development subcommittee on March 28, 2023.

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
March 28, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

Clerk of the House

ADOPTION NO. _____

BILL NO: H. 4020

(Reference is to the original version)

The Economic Development Legislative Subcommittee proposes the following amendment (LC-4020.DG0002H):

Amend the bill, as and if amended, SECTION 2, by striking Section 12-6-50(E)(1), (2), and (3) and inserting:

(1) In addition to the rebates allowed pursuant to subsection (A), the department may rebate to a motion picture production company up to thirty percent of the expenditures made by the motion picture production company in the State if the motion picture production company has a minimum in-state expenditure of one million dollars. This item does not apply to payroll paid for motion picture production employees subject to this section or money paid to the companies described in subsection (A)(2)(a)(ii) or (iii). The allocations to motion picture production companies contemplated by this chapter must be made by the department. The department shall report

annually to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on the use of all funds pursuant to this item. The report is a public record pursuant to the Freedom of Information Act, Chapter 4, Title 30, and must be posted annually on the commission's website by July first.

(2) Also, the department may use a portion of the rebate allotment to fund the operations for the South Carolina Film Commission and for the promotion of collaborative production and educational efforts between institutions of higher learning in South Carolina and motion picture-related entities.

(3) Any rebates allowed or funds used by the department pursuant to this subsection shall reduce the annual limit set forth in subsection (A) by an equal amount.

(4) The department, in conjunction with the South Carolina Film Commission, shall adopt rules and promulgate regulations necessary to administer this subsection.

Renumber sections to conform.

Amend title to conform.



**SOUTH CAROLINA
REVENUE AND FISCAL AFFAIRS OFFICE**

EDWARD B. GRIMBALL, Chairman
C. CURTIS HUTTO
G. MICHAEL MIKOTA, Ph.D.

FRANK A. RAINWATER
Executive Director

March 27, 2023

Ms. Meredith Ross
Assistant General Counsel and Legislative Director
House Ways and Means Committee
525 Blatt Building
Columbia, SC 29201

Dear Ms. Ross:

This is in response to your request for the estimated impact of H. 4020 of 2023 with a proposed amendment referenced as LC-4020.DG0002H.

Summary

This bill as amended makes changes to the amounts and funding available to the South Carolina Film Commission for motion picture film incentives. The bill changes the funding by increasing the annual rebates the South Carolina Film Commission may issue from \$10,000,000 to \$30,000,000 annually and repealing the current code section that allocates 26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full \$30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, the South Carolina Department of Parks, Recreation and Tourism (PRT) may use a portion of the rebate allotment to fund the operations of the SC Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit.

The Commission intends to implement the changes with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged \$406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented in the future, the Commission may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates.

The bill will repeal the transfer of 26 percent of the prior year's General Fund admissions tax and increase allowable General Fund rebates by \$20,000,000. The net impact will be to reduce available General Fund revenue by \$9,343,120 in FY 2023-24.

State Expenditures

This bill makes changes to the funding to the Film Commission for motion picture film incentives. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit.

The Film Commission intends to implement the changes with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged \$406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented, the Commission may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates.

State Revenues

This bill as amended makes changes to the funds available to the South Carolina Film Commission for motion picture film incentives. The bill changes the funding by increasing the annual rebates the South Carolina Film Commission may issue for motion picture payroll and non-payroll expenses from \$10,000,000 to \$30,000,000 annually and repealing the current code section that allocates 26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full \$30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the SC Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual limit of rebates.

Currently, the Film Commission is authorized to rebate to a motion picture company a portion of the South Carolina payroll of the employment of persons subject to income tax withholdings for the motion picture production. The rebate may not exceed 20 percent of the aggregate payroll expenses for persons subject to South Carolina income tax and 25 percent for South Carolina residents. The production must have total costs in South Carolina of \$1,000,000 during the taxable year.

Additionally, the Commission receives 26 percent of the prior fiscal year's General Fund admissions tax revenue. These funds may be used to rebate up to 30 percent of the expenditures made by the company for non-payroll expenditures. Up to 7 percent

Ms. Meredith Ross

March 27, 2023

Page 3

may be used for marketing and special events, and 1 percent may be used for the promotion of collaborative production and education efforts.

While the code sections currently separate the funding sources for payroll and non-payroll expenditures, the agency has been allowed to pool these funds by proviso, most recently Proviso 49.14 in the FY 2022-23 Appropriations Act. Further, the Commission has also been authorized to carry forward funds committed to projects from a prior fiscal year, most recently by Proviso 49.8.

The Commission reports that they anticipate there will be sufficient motion picture production projects to rebate the full \$30,000,000 allowed under the bill. Based on the forecast by the Board of Economic Advisors on February 15, 2023, General Fund admission tax is projected to total \$40,988,000 in FY 2022-23. Under current law, the Film Commission would receive 26 percent of this amount, or \$10,656,880, in FY 2023-24. This bill would repeal this transfer, increasing available General Fund admission tax revenue by \$10,656,880. The bill will increase General Fund rebates from \$10,000,000 to \$30,000,000, for a \$20,000,000 reduction in available General Fund revenue due to rebates beginning in FY 2023-24. The net General Fund revenue impact of these changes will be a reduction of \$9,343,120 in FY 2023-24.

If we may be of further assistance, please advise.

Sincerely,



Frank A. Rainwater
Executive Director

FAR/lhj

1
2
3
4
5
6
7
8
9
10

A BILL

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-62-50,
12 RELATING TO THE TAX REBATE FOR CERTAIN MOTION PICTURE PRODUCTION
13 COMPANIES, SO AS TO INCREASE THE ANNUAL LIMIT, AND BY ALLOWING THE USE OF
14 REBATES FOR CERTAIN EXPENDITURES AND EXPENSES; AND BY REPEALING SECTION
15 12-62-60 RELATING TO DISTRIBUTION OF ADMISSIONS TAXES FOR REBATES TO
16 MOTION PICTURE PRODUCTION COMPANIES AND CERTAIN DEPARTMENTAL
17 EXPENSES.
18

19 Be it enacted by the General Assembly of the State of South Carolina:

20

21 SECTION 1. Section 12-62-50(A)(1) of the S.C. Code is amended to read:

22

23 (1) The South Carolina Film Commission may rebate to a motion picture production company a
24 portion of the South Carolina payroll of the employment of persons subject to South Carolina income
25 tax withholdings in connection with production of a motion picture. The rebate may not exceed twenty
26 percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax
27 withholdings, and may not exceed twenty-five percent for South Carolina residents, for persons
28 employed in connection with the production when total production costs in South Carolina equal or
29 exceed one million dollars during the taxable year. The rebates in total may not annually exceed ~~ten~~
30 thirty million dollars and shall come from the state's general fund. Any unused rebates may be carried
31 forward for the next three tax years thereby increasing the annual limit in those subsequent years. For
32 purposes of this section, "total aggregate payroll" does not include the salary of an employee whose
33 salary is equal to or greater than one million dollars for each motion picture.

34

35 SECTION 2. Section 12-62-50 of the S.C. Code is amended by adding:

36

37 (E)(1) In addition to the rebates allowed pursuant to subsection (A), the department may rebate to a
38 motion picture production company up to thirty percent of the expenditures made by the motion picture
39 production company in the State if the motion picture production company has a minimum in-state
40 expenditure of one million dollars. This item does not apply to payroll paid for motion picture
41 production employees subject to this section or money paid to the companies described in subitem

1 (a)(ii) or (iii). The allocations to motion picture production companies contemplated by this chapter
2 must be made by the department. The department shall report annually to the Chairman of the Senate
3 Finance Committee and the Chairman of the House Ways and Means Committee on the use of all funds
4 pursuant to this item. The report is a public record pursuant to the Freedom of Information Act, Chapter
5 4, Title 30, and must be posted annually on the commission's website by January first.

6 (2) Also, the department may use a portion of the rebate allotment to fund the operations for the
7 South Carolina Film Commission and for the promotion of collaborative production and educational
8 efforts between institutions of higher learning in South Carolina and motion picture-related entities.
9 Any funds used by the department pursuant to this item shall reduce the annual limit set forth in
10 subsection (A) by an equal amount.

11 (3) The department, in conjunction with the South Carolina Film Commission, shall adopt rules
12 and promulgate regulations necessary to administer this subsection.

13

14 SECTION 3. Section 12-62-60 of the S.C. Code is repealed.

15

16 SECTION 4. This act takes effect upon approval by the Governor.

17

----XX----