

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 732

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to tax credits for qualified motion media projects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.750, to read as follows:

135.750. 1. This section shall be referred to as the "Show MO Act".

2. As used in this section, the following terms mean:

(1) ["Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project] "Above-the-line individual", any individual hired or credited on screen for a qualified motion media production project as any type of producer, principal cast that is at a screen actors guild schedule f and above payment rate, screenwriter, and the director;

(2) "Qualified [film] motion media production project", any film[, video, commercial, or television production] or series production, including videos, commercials, video games, webisodes, music videos, content-based mobile applications, virtual reality, augmented reality, multi-media, and new media, as well as standalone visual effects and post-production for such motion media production project, as approved by the department of economic development and the office of the Missouri film commission, that features a statement and logo designated by

the department of economic development in the credits of the completed production indicating that the project was filmed in Missouri and that is under thirty minutes in length with [an] expected [in-state expenditure budget] qualifying expenses in excess of fifty thousand dollars[,] or [that] is over thirty minutes in length with [an] expected [in-state expenditure budget] qualifying expenses in excess of one hundred thousand dollars. Regardless of the production costs, "qualified [film production] motion media project" shall not include any:

- (a) News or current events programming;
- (b) Talk show;
- (c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;
- (d) Sports event or sports program;
- (e) Gala presentation or awards show;
- (f) Infomercial or any production that directly solicits funds;
- (g) Political ad;
- (h) Production that is considered obscene, as defined in section 573.010;

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified [film] motion media production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company on which the production company remitted withholding

payments to the department of revenue under chapter 143. For purposes of this section, compensation and wages [shall not include any amounts paid to a highly compensated individual] paid to all above-the-line individuals shall be limited to twenty-five percent of the overall qualifying expenses;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;

(5) "Taxpayer", any individual, partnership, or corporation as described in section 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 148 or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

[2. For all taxable years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the amount of investment in production or production-related activities in any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. For all taxable years beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project. Each film production company shall be limited to one qualified film production project per year.]

3. (1) For all tax years beginning on or after January 1, 2022, a taxpayer shall be allowed a tax credit equal to twenty percent of qualifying expenses.

(2) An additional five percent may be earned for qualifying expenses if at least fifty percent of the qualified motion media production project is filmed in Missouri.

(3) An additional five percent may be earned for qualifying expenses if at least fifteen percent of the qualified motion media production project that is filmed in Missouri takes place in a rural or blighted area in Missouri.

(4) An additional five percent may be earned for qualifying expenses if at least three departments of the qualified motion media production hire a Missouri resident ready to advance to the next level in a specialized craft position or learn a new skillset.

(5) An additional five percent may be earned for qualifying expenses if the department of economic development determines that the script of the qualified motion media production project positively markets a city or region of the state, the entire state, or a tourist attraction located in the state, and the qualified motion media production provides no less than five high resolution photographs containing cast with the rights cleared for promotional use by the Missouri film commission, accompanied by a list with the title of production, location, names, and titles of the individuals shown in the photography and photographer credit.

(6) The total dollar amount of tax credits authorized pursuant to subdivision (1) of this subsection shall be increased by ten percent for qualified film production projects located in a county of the second, third, or fourth class.

(7) Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

4. A qualified motion media production project shall not be eligible for tax credits pursuant to this section unless such project employs the following number of Missouri registered apprentices or veterans residing in Missouri with transferable skills:

(1) If the qualifying expenses are less than five million dollars, two;

(2) If the qualifying expenses are at least five million dollars but less than ten million dollars, three;

(3) If the qualifying expenses are at least ten million dollars but less than fifteen million dollars, six;
or

(4) If the qualifying expenses are at least fifteen million dollars, eight.

[3.] 5. Taxpayers shall apply for the **[film]** motion media production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected **[in-state expenditures]** qualifying expenses of the qualified **[film]** motion media production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the **[film]** qualified motion media production project. Such economic impact statement shall indicate the impact on the region of the state in which the **[film]** qualified motion media production or production-related activities are located and on the state as a whole. Final applications shall be accompanied by a report by a certified public accountant located and licensed by the state of

Missouri, prepared at the expense of the applicant, attesting that the amounts in the final application are qualifying expenses.

[4.] 6. [For all taxable years ending on or before December 31, 2007, tax credits certified pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year.] For all [taxable] tax years beginning on or after January 1, [2008] 2022, the total amount of tax credits [certified under subsection 1 of] authorized by this section for film production shall not exceed a total [for all tax credits certified] of [four] eight million [five hundred thousand] dollars per year, and the total amount of all tax credits authorized by this section for series production shall not exceed a total of eight million dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the [film] qualified motion media production or production-related activities for which the credits are certified by the department occurred.

[5.] 7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection [2] 3 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the [film] qualified motion media production or production-

related activities for which the credits are certified by the department occurred.

8. The tax credit authorized by this section shall be considered a business recruitment tax credit, as defined in section 135.800, and shall be subject to the provisions of sections 135.800 to 135.830.

9. The department of economic development may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

[6.] 10. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the **[new]** program authorized under this section shall automatically sunset **[six years after November 28, 2007]** on December 31, 2029, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first, twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in

which the program authorized under this section is sunset; and

(4) The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized pursuant to this section expires, or a taxpayer's ability to redeem such tax credits.