

Legislative Analysis



MOTION PICTURE PRODUCTION INCENTIVES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5204 (Substitute H-2)
Sponsor: Rep. Bill Huizenga

House Bill 5205 (Substitute H-2)
Sponsor: Rep. Roger Kahn

House Bill 5206 (Substitute H-4)
Sponsor: Rep. Fulton Sheen

House Bill 5207 (Substitute H-2)
Sponsor: Rep. Virgil Smith

House Bill 5209 (Substitute H-1)
Sponsor: Rep. Richard Ball

Committee: Tax Policy

First Analysis (10-31-05)

BRIEF SUMMARY: The bills would provide tax benefits to motion picture production companies.

FISCAL IMPACT: The fiscal impact of the bills depends on the current and new economic activity generated in the state by motion picture production companies. Between \$2 million and \$20 million (annually) was spent in the state by motion picture production companies in the state over the last four years.

THE APPARENT PROBLEM:

Michigan is said to rank in the middle among the states in the film business and in the top 10 in the production of commercials. In recent years, the state has hosted several major movies, including *Road to Perdition*, which was filmed in the Saugatuck area and other west Michigan locations, and *8 Mile*, which was filmed in metropolitan Detroit. Although the state has historically been successful in luring film and commercial producers to the state, it has been struggling in these efforts over the past few years. While the state offers great and varied scenery and a strong, talented workforce, it has a difficult time competing with Canada and other states for business. In recent years, the state has lost out on the production of such films as *The Upside of Anger*, *Assault on Precinct 13*, and *Four Brothers*. Each of these films is set in the Detroit-area, but the principal filming occurred elsewhere. (A film of this nature is often known as a "runaway production.") In *The Upside of Anger*, what appeared to be suburban Detroit was really suburban London, England, with only a few key shots taken in Michigan. In *Assault on Precinct 13*, the beleaguered Detroit Police precinct was not in Detroit but actually in Toronto.

When a film is shot in a community, it has a tremendous economic impact on the area. In the few weeks or months that a film crew is on location, it injects a lot of money into the surrounding local economy, by hiring local talent and buying goods and services. For example, according to committee testimony last session, Universal Studios spent between

\$8 million and \$10 million on the Eminem biopic *8 Mile*. That number increases when multipliers are factored into that spending. On a longer term basis, local areas often attract new tourists from being featured in films; this has happened with the Field of Dreams in Dyersville, Iowa and the Grand Hotel on Mackinac Island, which was featured in the 1980 film *Somewhere in Time*.

Taking note of the potential economic impact, other states and nations have created a host of incentives in an attempt to attract movie production. The U.S. is now competing with Canada, and states are competing with one another, in attracting the film industry. The proliferation of these incentives, primarily in the form of tax breaks, has dispersed the concentration of film-related business from the traditional industry centers of California (Hollywood) and New York to Chicago, Louisiana, and New Mexico, as well as Vancouver and Toronto. California has lost so much business that it is now considering legislation (Assembly Bill 777) creating incentives for movie production.

Supporters say that these incentives can be an effective tool. An August 2005 report by the Los Angeles County Economic Development Corporation notes that in Chicago, production spending increased from \$45 million in 2003, prior to the adoption of financial incentives, to more than \$75 million in 2005. Spending in Louisiana increased from a modest \$12 million in 2002 to \$330 million in 2004.

Michigan does not offer any financial incentives to movie producers and, critics say that as a result it loses out in attracting films, including those actually set in Michigan. They recommend that the state offer incentives, including tax breaks, to promote movie production in the state.

THE CONTENT OF THE BILL:

The bills would provide certain incentives for the production or filming of a motion picture in the state. House Bill 5206 would provide a credit against the Single Business Tax that would include, as provided in House Bills 5204 and 5205, the amount of sales and use taxes paid and 130 percent of the company's SBT liability. House Bill 5207 defines phrases used in each of the tax bills, and House Bill 5209 makes state property, with certain exceptions, available for use in production free of charge. The bills are tied to each other.

House Bill 5204 (Sales Tax) and House Bill 5205 (Use Tax)

The bills would amend the General Sales Tax Act (MCL 205.54cc) and the Use Tax Act (MCL 205.94z), respectively, to allow a motion picture company to claim a credit under the Single Business Tax Act equal to the amount of sales and use taxes paid, if the company has spent at least \$250,000 in the state for purposes related to filming or production of a single motion picture, and the property subject to taxation is used exclusively as an integral part of the production activities in the state. The credits would be available to production companies that begin production after July 1, 2005, but would not be available for works of an obscene nature.

House Bill 5206 (Single Business Tax)

The bill would amend the Single Business Tax Act (MCL 208.35e) to provide an SBT credit to a motion picture production company that spends at least \$250,000 in the state for purposes related to the filming or production of a single motion picture.

The credit would be equal to the sum of 130 percent of the company's tax liability and the amount of sales and use taxes paid attributable to the filming or production of a motion picture in the state. The credit would be available for production companies that begin production after July 1, 2005, but would not be available for works of an obscene nature.

House Bill 5207 (Single Business Tax Act)

The bill would amend the Single Business Tax Act (MCL 208.35f) to add definitions for "motion picture," "motion picture production company," and "obscene matter or an obscene performance." The definitions are also used in House Bills 5204 and 5205.

The bill would define "motion picture" to mean a feature-length film distributed in at least two states and that is not required under federal law (18 USC 2257) to maintain certain production records regarding performers in the production, or television series or commercial made in the state in whole or in part for theatrical or television viewing or as a television pilot. It would not include the production of television coverage of news and sporting events. [The federal law reference in the bill requires records on performers in a film or videotape, among other media, that contains actual sexually explicit conduct.]

The bill would define "obscene matter or an obscene performance" as matter described in Public Act 343 of 1984. That act defines "obscene" to mean material that meets all of the following criteria: (1) the average individual, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interest; (2) the reasonable person would find that material, taken as a whole, lacks serious literary, artistic, political, or scientific value; and (3) the material depicts or describes sexual conduct in a patently offensive way.

House Bill 5209 (History, Arts, and Libraries Act)

The bill would amend the History, Arts, and Libraries Act (MCL 399.721) to require the state film office to adopt policies and standards for making state-owned property, except medical facilities and correctional institutions, available free of charge for film and television production in the state.

BACKGROUND INFORMATION:

State Film Agencies

The Michigan Film Office is the state agency charged with trying to attract film, television, and related media business to the state. The office, which is staffed by one

civil servant and student interns, was established in 1979 by an executive order by Governor Milliken. The office was formally established in statute with the enactment of the Public Act 508 of 2002. Public Act 508 also established the Michigan Film Advisory Commission, a 13-member commission that assists in the promotion and marketing of the state's film industry. The film office's website is available through the Department of History, Arts, and Libraries at www.michigan.gov/hal.

The Senate-passed version of the tobacco settlement securitization package (House Bill 5047) included \$2 million in funding for the film office for the Michigan Film Initiative. The funding is to be used for (1) hiring an independent consultant to conduct a baseline study that will accurately demonstrate the state's status within the film industry and include recommendations for attracting motion pictures; (2) marketing and promoting the state as a premiere location for filming motion pictures, commercials, and documentaries; and (3) assisting in workforce development within the film industry by supporting on-the-job training of qualified crew members.

ARGUMENTS:

For:

The package of bills is about one thing: promoting economic activity. People in the field say that Michigan has many of the assets needed to attract motion picture production, including a wide variety of rural and urban locations, experienced crews, and post-production facilities. However, it is a disadvantage compared to other states and Canadian provinces because the cost of doing business here in Michigan can be much higher than elsewhere. For some productions, it can be cheaper to replicate the Michigan setting elsewhere and film only what's critical in Michigan, rather than base the entire production in the state. That's why a film like *Assault on Precinct 13* was filmed in Toronto rather than Detroit. The financial incentives provided by the bills are necessary for the state to remain competitive with other areas in attracting the film industry (and ancillary economic benefits) to the state.

Proponents of the bill note that amount of revenue "lost" by these bills will be more than made up through increased economic activity, including work for Michigan-based crews and actors and similar talent and increased spending on hotel and meal expenses, carpentry and construction work, costuming supplies, and other related goods and services.

Response:

The state's efforts in luring the film industry could be markedly improved if the Michigan Film Office was provided with greater financial resources enabling it to hire additional staff. The office is staffed only by one paid civil servant, with additional assistance from student interns. With an appropriation of just over \$174,000 in FY 2006, the office more than pays for itself by attracting business to the state.

POSITIONS:

The Michigan Film Office supports the bills. (10-25-05)

The Department of Treasury supports the concept of the bills. (10-25-05)

Colony Films supports the bills. (10-25-05)

The West Michigan Film Video Alliance supports the bills. (10-25-05)

The Screen Actors Guild supports the bills. (10-25-05)

The Teamster's Union supports the bills. (10-25-05)

Compass Film Academy supports the bills. (10-25-05)

The Michigan State AFL-CIO supports the bills. (10-25-05)

The National Association of Theater Owners supports the bills. (10-25-05)

Vernacular Films LLC supports the bills. (10-25-05)

Legislative Analyst: Mark Wolf
Fiscal Analyst: Rebecca Ross

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