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BILL ANALYSIS

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House Bill 5204 (Substitute H-2 as passed by the House)
House Bill 5205 (Substitute H-2 as passed by the House)
House Bill 5206 (Substitute H-4 as passed by the House)
House Bill 5207 (Substitute H-2 as passed by the House)
House Bill 5209 (Substitute H-1 as passed by the House)

Sponsor: Representative Bill Huizenga (H.B. 5204)
Representative Roger Kahn (H.B. 5205)
Representative Fulton Sheen (H.B. 5206)
Representative Virgil Smith (H.B. 5207)
Representative Richard Ball (H.B. 5209)

House Committee: Tax Policy

Senate Committee: Finance

Date Completed: 3-29-06

CONTENT

House Bills 5204 (H-2) through 5207 (H-2) would amend the General Sales Tax Act, the Use Tax Act, and the Single Business Tax Act to allow a motion picture production company that spent at least \$250,000 in this State after July 1, 2005, to claim a credit against the single business tax (SBT) equal to the following:

- **130% of the SBT liability attributable to the filming or production of the motion picture.**
- **All sales tax paid on retail sales related to the filming or production.**
- **All use tax paid on the use, storage, or consumption of tangible property related to the filming or production.**

A motion picture depicting obscene matter or an obscene performance would not be eligible for the tax credit.

House Bill 5209 (H-1) would amend the History, Arts, and Libraries Act to require the Michigan Film Office to adopt policies and standards for making State-owned property available to be used free of charge for film and television production in this State. The bill would not apply to a medical facility or correctional institution.

The five bills are tie-barred to each other. House Bills 5204 (H-2) through 5207 (H-2) are described in detail below.

House Bills 5204 (H-2) and 5205 (H-2)

House Bills 5204 (H-2) and 5205 (H-2) would amend the General Sales Tax Act and the Use Tax Act, respectively, to specify that a motion picture production company that began production of a motion picture after July 1, 2005, could claim a credit under Section 35e of the Single Business Tax Act (which House Bill 5206 (H-4) would create) equal to the amount

of sales tax that the company paid on retail sales, or equal to the amount of use tax paid, if both of the following applied:

- The motion picture company had spent \$250,000 or more in this State for purposes related to the filming or production of a single motion picture.
- The tangible personal property purchased by the company was used, stored, or consumed exclusively as an integral part of the production activities in this State.

The company would not be eligible for the credit if the motion picture or production activities depicted obscene matter or an obscene performance, as described in Public Act 343 of 1984.

House Bill 5206 (H-4)

The bill would amend the Single Business Tax Act to allow a motion picture company that had spent \$250,000 or more in this State for purposes related to the filming or production of a single motion picture to claim a credit against the tax imposed by the Act equal to the sum of the following:

- 130% of the tax liability attributable to business activity in this State on or after July 1, 2005, attributable to the filming or production of that motion picture.
- The amount calculated under Section 4cc of the General Sales Tax Act (which House Bill 5204 (H-2) would add).
- The amount calculated under Section 4z of the Use Tax Act (which House Bill 5205 (H-2) would add).

The bill would apply only to the production of a motion picture that began on or after July 1, 2005.

For the purposes of determining the credit, a motion picture company could not include business activity attributable to the filming of a motion picture that depicted obscene matter or an obscene performance.

A taxpayer could assign all or a portion of the credit. A credit assignment would be irrevocable, and would have to be made in the tax year in which the business activity on which the credit was based occurred. An assignee could not subsequently assign a credit or any portion of a credit assigned.

The assignment would have to be made on a form prescribed by the Department of Treasury, and the taxpayer that assigned the credit would have to send a copy of the completed assignment form to the Treasury Department during the tax year in which the assignment was made, and would have to attach a copy to its annual tax return for that year.

If the credit allowed under the bill and any unused carry-forward of the credit exceeded the tax liability of the taxpayer for the tax year, the excess would not be refunded, but could be carried forward as an offset to tax liability in subsequent years for up to 10 years.

House Bill 5207 (H-2)

The bill would amend the Single Business Tax Act to add the definitions described below:

"Motion picture" would mean a feature-length film distributed in two or more states or a television series or commercial made in this State in whole or in part, for theatrical or television viewing or as a television pilot. "Motion picture" would not include the production of television coverage of news or sporting events, and would not include productions for

which records are required to be kept for any performer in the production under 18 USC 2257. (That section requires a person who produces subject matter containing depictions of sexually explicit conduct to maintain individual records for each performer portrayed in such depictions, including the performer's name, date of birth, and any other names ever used by the performer.)

"Motion picture production company" would mean a company in the business of producing motion pictures, but would not include a company owned, affiliated, or controlled, in whole or in part, by a company or individual who is in default on a loan made by or guaranteed by the State.

"Obscene matter or an obscene performance" would mean matter described in Public Act 343 of 1984. Under that Act, material is obscene if all of the following apply: The average individual, applying contemporary community standards, would find that, taken as a whole, it appeals to the prurient interest; the reasonable person would find that it lacks serious literary, artistic, political, or scientific value; and it depicts or describes sexual conduct in a patently offensive way.

(These definitions also would be included in the General Sales Tax Act under House Bill 5204 (H-2), and in the Use Tax Act under House Bill 5205 (H-2)).

Proposed MCL 205.54cc (H.B. 5204)
Proposed MCL 205.94z (H.B. 5205)
Proposed MCL 208.35e (H.B. 5206)
Proposed MCL 208.35f (H.B. 5207)
MCL 399.721 (H.B. 5209)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

House Bills 5204 (H-2) to 5207 (H-2)

It is estimated that these bills would reduce single business tax revenue by less than \$0.5 million on a full-year basis. This estimate is based on information from the Michigan Film Office within the Department of History, Arts, and Libraries. The Michigan Film Office reports that over the past few years, motion picture production companies spent between \$2 million and \$20 million annually in Michigan. This loss in revenue would affect the General Fund/General Purpose budget.

House Bill 5209 (H-1)

The bill would decrease revenue to the State by a minimal amount. Staff from the Department of History, Arts, and Libraries have indicated that the State has received only a small amount of revenue, estimated at less than \$2,000, from the rental of State facilities for television and movie production.

The bill would have no fiscal impact on local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.