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BILL ANALYSIS

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House Bill 5847 (as passed by the House)
Sponsor: Representative Marie Donigan
House Committee: Commerce
Senate Committee: Commerce and Tourism

Date Completed: 3-18-08

CONTENT

The bill would amend the Michigan Economic Growth Authority (MEGA) Act to include a film and digital media production business among the businesses eligible for a business tax credit under the Act.

The Act allows MEGA to enter into an agreement with an eligible business for a credit against the tax imposed by the Michigan Business Tax Act. To be eligible for the credit, a business must create and maintain a minimum number of qualified new jobs in the State, retain a minimum number of jobs, and/or make a certain level of new capital investment. The applicable requirements depend on the type and location of a business and whether it is expanding or locating in Michigan. A business also must meet various other criteria, including a requirement that the average wage paid for qualified new jobs and retained jobs be at least 150% of the Federal minimum wage. The credit is based on payroll attributable to employees who perform qualified new jobs or retained jobs.

The Act defines "eligible business" as a distressed business; a business that proposes to maintain retained jobs or to create qualified new jobs in manufacturing, mining, research and development, wholesale and trade, or office operations; or a qualified high-technology business.

Under the bill, "eligible business" also would include a business that proposes to maintain retained jobs or create qualified new jobs in film and digital media production.

"Film and media production" would mean the development, preproduction, production, postproduction, and distribution of single media or multimedia entertainment content for distribution or exhibition to the general public in two or more states by any means and media in any digital media format, film, or video tape, including a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

The term also would include the development, preproduction, production, postproduction, and distribution of a trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a film or digital media production.

"Film and media production" would not include the production of any of the following:

- A production for which records must be maintained with respect to any performer in the production under 18 USC 2257 (which concerns sexually explicit visual depictions).
- A production that includes obscene matter or an obscene performance, as described in Public Act 343 of 1984 (which prohibits the dissemination of obscene material).
- A production that primarily consists of televised news or current events, a live sporting event, or political advertising.
- A radio program.
- A weather show, talk show, or game show.
- A financial market report.
- A production that primarily markets a product or service.
- An awards show or other gala event production.
- A production with the primary purpose of fund-raising.
- A production that primarily is for employee training or in-house corporate advertising or other similar production.

MCL 207.803

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would decrease State General Fund revenue by an unknown and potentially significant amount, depending upon the characteristics of affected taxpayers' Michigan business tax liability, the agreements with MEGA, and the credits awarded by MEGA. Credits awarded to eligible businesses under the affected sections are refundable. The MEGA credits originally applied to the single business tax (SBT), and were expected to reduce SBT liability during FY 2007-08 by approximately \$140.7 million.

While not tie-barred to other bills affecting similar taxpayers, unlike the provisions in many of those related bills, House Bill 5847 would not preclude expenditures related to the bill from also being eligible for credits under the other bills. As a result, business activity generating a credit under this bill also could generate credit activity under the related bills.

Fiscal Analyst: David Zin

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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.