

SENATE BILL NO. 439

June 28, 2023, Introduced by Senators POLEHANKI, GEISS, WOJNO, KLINEFELT and MOSS and referred to the Committee on Economic and Community Development.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 29, 29a, 29b, and 29d (MCL 125.2029, 125.2029a, 125.2029b, and 125.2029d), sections 29 and 29b as added by 2008 PA 75, section 29a as amended by 2011 PA 291, and section 29d as amended by 2020 PA 199; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 29. As used in this chapter:
- 2 (a) "Accredited production certificate" or "APC" means that

1 term as defined in section 285 of the income tax act of 1967, 1967
2 PA 281, MCL 206.285.

3 (b) "Applicant" means that term as defined in section 285 of
4 the income tax act of 1967, 1967 PA 281, MCL 206.285.

5 (c) ~~(a)~~—"Commissioner" means the Michigan film commissioner
6 created in section 29b.

7 (d) ~~(b)~~—"Council" means the Michigan film office advisory
8 council created in section 29c.

9 (e) "Film and media" includes all of the following:

10 (i) Films.

11 (ii) Television programs.

12 (iii) Commercials.

13 (iv) Corporate videos.

14 (v) Commercial photography.

15 (vi) Digital media.

16 (f) ~~(e)~~—"Local film office" means an office, agency, bureau,
17 or department of a political subdivision of this state that seeks
18 to promote film production within the political subdivision and
19 that is funded principally by the political subdivision.

20 (g) ~~(d)~~—"Office" means the Michigan film **and digital media**
21 office created in section 29a.

22 (h) ~~(e)~~—"Promotion fund" means the Michigan film promotion
23 fund created under section 29d.

24 (i) "Qualified Michigan vendor" means that term as defined in
25 section 285 of the income tax act of 1967, 1967 PA 281, MCL
26 206.285.

27 (j) "Qualified personnel expenditure" means that term as
28 defined in section 285 of the income tax act of 1967, 1967 PA 281,
29 MCL 206.285.

1 (k) "Qualified probationary Michigan vendor" means that term
2 as defined in section 285 of the income tax act of 1967, 1967 PA
3 281, MCL 206.285.

4 (l) "Qualified production" means that term as defined in
5 section 285 of the income tax act of 1967, 1967 PA 281, MCL
6 206.285.

7 (m) "Qualified production expenditure" means that term as
8 defined in section 285 of the income tax act of 1967, 1967 PA 281,
9 MCL 206.285.

10 (n) "State" means the state of Michigan.

11 (o) "Tax credit certificate" or "TCC" means that term as
12 defined in section 285 of the income tax act of 1967, 1967 PA 281,
13 MCL 206.285.

14 (p) "Tax credit program" means the tax credits under sections
15 285 and 677 of the income tax act of 1967, 1967 PA 281, MCL 206.285
16 and 206.677.

17 Sec. 29a. (1) The Michigan film **and digital media** office is
18 created in the fund. The office ~~shall be~~ **is** the successor to any
19 authority, powers, duties, functions, or responsibilities of the
20 Michigan film office under former section 21 of the history, arts,
21 and libraries act, 2001 PA 63.

22 (2) The office may do all of the following:

23 (a) Promote and market locations, talent, crews, facilities,
24 and technical production and other services related to ~~film,~~
25 ~~digital media, and television~~ **film and media** production in this
26 state.

27 (b) Provide to interested persons descriptive and pertinent
28 information on locations, talent, crews, facilities, and technical
29 production and other services related to ~~film, digital media, and~~

1 ~~television~~**film and media** production in this state.

2 (c) Provide technical assistance to the ~~film, television, and~~
3 ~~digital media~~**film and media** industry in locating and securing the
4 use of locations, talent, crews, facilities, and services in this
5 state.

6 (d) Encourage community and Michigan ~~film, digital media, and~~
7 ~~television~~**film and media** production industry participation in, and
8 coordination with, state and local efforts to attract ~~film, digital~~
9 ~~media, and television~~**film and media** production in this state.

10 (e) Serve as this state's chief liaison with the ~~film, digital~~
11 ~~media, and television~~**film and media** production industry and with
12 other governmental units and agencies for the purpose of promoting,
13 encouraging, and facilitating ~~film, digital media, and television~~
14 **film and media** production in this state.

15 (f) Explain the benefits and advantages of producing ~~films,~~
16 ~~digital media, and television productions~~**film and media** in this
17 state.

18 (g) Assist ~~film, digital media, and television~~**film and media**
19 producers with securing location authorization and other
20 appropriate services connected with ~~film, digital media, and~~
21 ~~television~~**film and media** production in this state.

22 ~~(h) Scout potential film locations for national and~~
23 ~~international film, digital media, and television prospects.~~

24 ~~(i) Escort film, digital media, and television producers on~~
25 ~~location scouting trips.~~

26 ~~(h)~~ ~~(j)~~ Serve as a liaison between ~~film, digital media, and~~
27 ~~television~~**film and media** producers, state agencies, local
28 agencies, federal agencies, community organizations and leaders,
29 and the ~~film, digital media, and television~~**film and media** industry

1 in this state.

2 (i) ~~(k)~~ Assist ~~film, digital media, and television~~ **film and**
 3 **media** producers in securing permits to film **or shoot** at specific
 4 locations in this state and in obtaining needed services related to
 5 ~~the film and media~~ production. ~~of a film, digital media, or a~~
 6 ~~television program.~~

7 (j) ~~(l)~~ Represent this state at ~~film, digital media, and~~
 8 ~~television~~ **film and media** industry trade shows and film festivals.

9 (k) ~~(m)~~ Sponsor workshops or conferences on topics relating to
 10 filmmaking, including, but not limited to, screenwriting, film
 11 financing, and the preparation of communities to attract and assist
 12 ~~film, digital media, and television~~ **film and media** productions in
 13 this state.

14 (l) ~~(n)~~ Encourage cooperation between local, state, and federal
 15 government agencies and local film offices in the location and
 16 production of ~~films, digital media, and television programming~~ **film**
 17 **and media** in this state.

18 (m) ~~(o)~~ Coordinate activities with local film offices.

19 (n) ~~(p)~~ Facilitate cooperation from state departments and
 20 agencies, local governments, local film offices, federal agencies,
 21 and private sector entities in the location and production of
 22 ~~films, digital media, and television programming~~ **film and media** in
 23 this state.

24 (o) ~~(q)~~ Prepare, maintain, and distribute a directory of
 25 persons, firms, and governmental agencies available to assist in
 26 the production of ~~films, digital media, and television programming~~
 27 **film and media** in this state.

28 (p) ~~(r)~~ Prepare, maintain, and distribute a digital library
 29 depicting the variety and extent of the locations within this state

1 for ~~film, digital media, and television~~ **film and media** productions.

2 **(q)** ~~(s)~~ Prepare and distribute appropriate promotional and
3 informational materials, **in a frequently asked question format and**
4 **other formats**, that do all of the following:

5 (i) Describe desirable locations in this state for ~~film,~~
6 ~~digital media, and television~~ **film and media** production.

7 (ii) Explain the benefits and advantages of producing ~~films,~~
8 ~~digital media, and television productions~~ **film and media** in this
9 state.

10 (iii) Detail services and assistance available from state
11 government, ~~from~~ local film offices, and ~~from the film, digital~~
12 ~~media, and television~~ **film and media** industry in this state.

13 **(r)** ~~(t)~~ Solicit and accept ~~gifts,~~ grants, labor, loans, and
14 other aid from any person, government, or entity. The film office
15 shall disclose the identity and amount of all gifts, grants, and
16 other donations on its website.

17 **(s)** ~~(u)~~ Employ technical experts, other officers, agents, or
18 employees, permanent or temporary, paid from the funds of the
19 office. The office shall determine the qualifications, duties, and
20 compensation of those the office employs.

21 **(t)** ~~(v)~~ Contract for goods and services and engage personnel
22 as necessary to perform the duties of the office under this
23 chapter.

24 **(u)** ~~(w)~~ Study, develop, and prepare reports or plans the
25 office considers necessary to assist the office in the exercise of
26 its powers under this chapter and to monitor and evaluate progress
27 under this chapter.

28 **(v)** ~~(x)~~ Exercise the duties and responsibilities vested in the
29 office under this chapter and all of the following:

1 (i) Section 88d.

2 (ii) Section 88j(3)(e).

3 ~~(iii) Section 4cc of the general sales tax act, 1933 PA 167, MCL~~
4 ~~205.54cc.~~

5 ~~(iv) Sections 455 to 459 of the Michigan business tax act, 2007~~
6 ~~PA 36, MCL 208.1455 to 208.1459.~~

7 ~~(y) Create and operate a film and digital media production~~
8 ~~assistance program to encourage film and digital media production~~
9 ~~throughout this state as provided in section 29h.~~

10 (iii) Sections 285 and 677 of the income tax act of 1967, 1967
11 PA 281, MCL 206.285 and 206.677.

12 (w) Do all of the following in connection with the tax credit
13 program:

14 (i) Prescribe forms for applications, notifications, contracts,
15 or other agreements.

16 (ii) Beginning on the effective date of the amendatory act that
17 added section 29(p) and until the date that is 10 years after the
18 effective date of the amendatory act that added section 29(p),
19 accept applications, determine eligibility, and issue qualified
20 production certificates for tax credits.

21 (iii) Work with applicants, qualified Michigan vendors, and
22 other vendors to ensure that all qualified personnel expenditures
23 and qualified production expenditures are paid.

24 (iv) Assist applicants pursuant to this chapter and sections
25 285 and 677 of the income tax act of 1967, 1967 PA 281, MCL 206.285
26 and 206.677, to promote, foster, and support qualified productions
27 and the related job creation or retention within this state.

28 (v) Gather information and conduct inquiries, in the manner
29 and by the methods the office considers appropriate, including, but

1 not limited to, gathering all of the following information:

2 (A) Information required for the office to comply with this
3 chapter and sections 285 and 677 of the income tax act of 1967,
4 1967 PA 281, MCL 206.285 and 206.677.

5 (B) Information regarding applicants that the office considers
6 necessary or appropriate for the purpose of making any designations
7 or certifications.

8 (C) Information to assist the office with any recommendations
9 or guidance in furtherance of the purposes of this chapter and the
10 tax credit program.

11 (D) Financial reports, returns, or other records relating to
12 the applicant or the qualified production.

13 (vi) Require applicants, on written request, to issue any
14 necessary authorization to the appropriate federal, state, or local
15 authority for the release of information described in subparagraph
16 (v).

17 (vii) Subject to appropriation, employ sufficient personnel for
18 the administration, operation, and related support of the tax
19 credit program and as required to adequately discharge the office's
20 duties and responsibilities under this chapter and sections 285 and
21 677 of the income tax act of 1967, 1967 PA 281, MCL 206.285 and
22 206.677.

23 (viii) Require an applicant to keep proper books of record and
24 accounts in accordance with generally accepted accounting
25 principles consistently applied.

26 (ix) Require the books, records, and other documents related to
27 the qualified production in the custody or control of the applicant
28 to be open to reasonable inspection by the office for at least 1
29 year after the completion of the agreed-upon procedures as that

1 term is defined in section 285 of the income tax act of 1967, 1967
2 PA 281, MCL 206.285. For purposes of this subparagraph, reasonable
3 inspection includes, but is not limited to, both of the following:

4 (A) Making copies of the books, records, or other documents.

5 (B) The inspection or appraisal of any of the assets of the
6 applicant or the qualified production.

7 (x) Take any actions that are necessary or appropriate to
8 protect this state's interest in the event of bankruptcy, default,
9 foreclosure, or noncompliance with the terms and conditions of the
10 tax credit program or an agreement or contract under that program,
11 including selling, leasing, or otherwise disposing of, on terms and
12 conditions determined by the office to be appropriate, any real or
13 personal property that the office receives as a result of the
14 bankruptcy, default, foreclosure, or noncompliance.

15 (x) ~~(z)~~—All other things necessary or convenient to achieve
16 the objectives and purposes of the office, this chapter, or other
17 laws that relate to the purposes and responsibilities of the
18 office.

19 (3) The enumeration of a power in this chapter ~~shall~~**does** not
20 ~~be construed as a limitation upon~~**limit** the general powers of the
21 office. The powers granted under this chapter are in addition to
22 those powers granted by any other law.

23 (4) The commissioner and the president of the fund shall
24 cooperate in administering the budget, procurement, and related
25 management functions of the office. The fund may provide the office
26 with staff support and other services to assist the office in
27 performing the functions and duties of the office.

28 (5) State departments, agencies, boards, commissions, and
29 officers and local film offices shall cooperate with the office in

1 the performance of the office's duties under this chapter.

2 Sec. 29b. (1) The head of the office ~~shall be~~ **is** the Michigan
3 film commissioner. The commissioner ~~shall be~~ **is** a member of the
4 state classified service. The terms and conditions of the
5 employment of the commissioner ~~shall~~ **must** be governed by a senior
6 executive service limited term employment agreement and the rules
7 and regulations of the civil service commission governing the
8 senior executive service. The term of the agreement ~~shall~~ **must** not
9 exceed 2 years and ~~shall~~ **must** end on December 31 of an even-
10 numbered year consistent with the rules and regulations of the
11 civil service commission. The ~~governor shall be~~ **fund is** the
12 appointing authority for the commissioner. Before entering ~~upon~~ **on**
13 the duties of ~~his or her~~ office, the commissioner shall take and
14 file the constitutional oath of office provided in section 1 of
15 article XI of the state constitution of 1963.

16 (2) The commissioner shall serve as an advisor to the governor
17 on matters relating to films and ~~other digital~~ media. The
18 commissioner may report directly to the governor and the president
19 of the fund on matters relating to the office, ~~to~~ the council, and
20 ~~to films and digital media~~ **film and media productions** generally.

21 (3) The commissioner shall supervise, and ~~be~~ **is** responsible
22 for, the performance of the functions of the office under this
23 chapter. The commissioner shall perform all duties vested in the
24 commissioner under the laws of this state. The commissioner shall
25 consult with the president of the fund on activities of the office
26 affecting the fund.

27 (4) The commissioner shall attend the meetings of the council
28 and provide the council and the president of the fund with regular
29 reports and other information describing the activities of the

1 office.

2 (5) Except as otherwise provided in this chapter, the
3 commissioner shall exercise ~~his or her~~ **the commissioner's** powers,
4 duties, functions, and responsibilities under this chapter
5 independently of the fund.

6 (6) The commissioner may promulgate rules under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328, as the commissioner ~~deems~~ **considers** necessary to execute
9 the duties and responsibilities of the office, **including, but not**
10 **limited to, rules the commissioner considers necessary for the**
11 **administration of the tax credit program.**

12 Sec. 29d. (1) The Michigan film promotion fund is created
13 ~~within~~ **in** the state treasury.

14 (2) The state treasurer may receive money or other assets from
15 any source for deposit ~~into~~ **in** the promotion fund, including
16 federal funds, other state revenues, gifts, bequests, and other
17 donations, including, but not limited to, ~~all~~ **both** of the
18 following:

19 (a) Fees deposited in the promotion fund under ~~sections 455 to~~
20 ~~459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to~~
21 ~~208.1459.~~ **sections 285 and 677 of the income tax act of 1967, 1967**
22 **PA 281, MCL 206.285 and 206.677.**

23 (b) Proceeds deposited in the promotion fund under section
24 88d.

25 ~~(c) Funds appropriated to create and operate the film and~~
26 ~~digital media production assistance program.~~

27 (3) The state treasurer shall direct the investment of **money**
28 **in** the promotion fund and ~~shall credit to the promotion fund~~
29 interest and earnings from ~~promotion fund~~ **the investments to the**

1 **promotion fund.**

2 (4) Money in the promotion fund at the close of a fiscal year
3 ~~shall remain~~**remains** in the promotion fund and ~~shall~~**does** not lapse
4 to the general fund.

5 (5) Money in the promotion fund may be expended, ~~upon~~**on**
6 appropriation, to support the functions of the office under this
7 chapter and other applicable law and for purposes authorized under
8 this chapter.

9 (6) Beginning October 1, 2011, the fund shall transfer to and
10 deposit in the promotion fund all money appropriated for Michigan
11 strategic fund - film incentive funding under section 1201 of
12 **article VIII of** 2011 PA 63.

13 (7) For the fiscal year ending September 30, 2020 only,
14 \$37,126,100.00 of the money in the Michigan film promotion fund is
15 transferred to and must be deposited into the general fund.

16 Enacting section 1. Section 29h of the Michigan strategic fund
17 act, 1984 PA 270, MCL 125.2029h, is repealed.

18 Enacting section 2. This amendatory act does not take effect
19 unless Senate Bill No. 438 of the 102nd Legislature is enacted into
20 law.