COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2015 REGULAR SESSION

MEASURE

2015 BR NUMBER **1260** **HOUSE** BILL NUMBER **340**

RESOLUTION NUMBER_____ AMENDMENT NUMBER _____

SUBJECT/TITLE An ACT relating to the expansion of the film tax credits.

SPONSOR Representative Rick Rand

NOTE SUMMARY

FISCAL ANALYSIS: ☒ IMPACT ☐ NO IMPACT ☐ INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: ☒ STATE ☐ LOCAL ☐ FEDERAL

BUDGET UNIT(S) IMPACT: _____

FUND(S) IMPACT: ☒ GENERAL ☐ ROAD ☐ FEDERAL ☐ RESTRICTED AGENCY _____ ☐ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2014-2015	2015-2016	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES		($5,500,000)	($5,500,000)
EXPENDITURES			
NET EFFECT		($5,500,000)	($5,500,000)

( ) indicates a decrease/negative

MEASURE'S PURPOSE: HB 340, as proposed, lowers the thresholds to allow more companies to qualify for the refundable tax credits and increases the amount of refundable credits that may be awarded to each company. The approved company must have qualifying expenditures and qualifying payroll expenditures that, when combined, meet the following thresholds. Below is a comparison of the current and the proposed thresholds.

Approved Company	Current Threshold	Proposed Threshold Out of state Co.	Proposed Threshold Ky-based Co.
Feature-length film Television program Industrial film	$500,000	$250,000	$125,000
Commercial	$200,000	$100,000	$100,000
Documentary	$ 50,000	$ 20,000	$ 10,000
Touring production of a Broadway Show	$ 50,000	$ 20,000	$ 20,000

HB 340, if enacted, would increase the available credits based upon whether the approved company hired Kentucky residents as below-the-line or above-the-line production crew and whether the production was filmed or produced in an enhanced incentive county or another Kentucky county. Below is a comparison of the current and proposed credits.

	Current Credit	**Proposed Credit Non Enhanced Incentive County**	**Proposed Credit Enhanced Incentive County**
Qualifying Expenditures	20%	30%	35%
Qualifying Payroll Expenditures **Below the Line Crew (nonresident)**	20% No cap per employee	30% No cap per employee	35% No cap per employee
Qualifying Payroll Expenditures **Below the Line Crew (resident)**	20% No cap per employee	35% No cap per employee	35% No cap per employee
Qualifying Payroll Expenditures **Above the Line Crew (nonresident)**	20% Cap-$100,000 per employee	30% Cap - $1,000,000 per employee	35% Cap - $1,000,000 per employee
Qualifying Payroll Expenditures **Above the Line Crew (resident)**	20% Cap-$100,000 per employee	35% Cap - $1,000,000 per employee	35% Cap - $1,000,000 per employee

Below the line production crew (examples) casting assistants, costume design, extras, gaffers, grips, location managers, production assistants, set construction staff, set design staff.

Above the line production crew – employees whose salaries are negotiated prior to the commencement of production (Examples) Actors, Directors, Producers, Writers.

PROVISIONS/MECHANICS:

Amends KRS 148.542 to add definitions for "enhanced incentive county," "Kentucky-based company," and "resident"; amends KRS 148.544 to establish thresholds for Kentucky-based companies to qualify for the film tax credit incentives and lower the thresholds for all other companies; increases current incentives for a motion picture or entertainment production filmed or produced in a county other than an enhanced incentive county and further increases the incentives for those productions filmed or produced in an enhanced incentive county; amends KRS 148.546 to require additional information to be included on the application for the incentives, incentive agreement, and cost report; applies to taxable periods beginning on or after January 1, 2015.

FISCAL EXPLANATION:

There are two key elements to consider when determining the potential fiscal impact of HB 340. First, with a lower threshold, activity that is taking place in the state that doesn't presently qualify, may now qualify. Also, a lower threshold may attract firms from outside of the state to come to Kentucky. Second, higher credit percentages may provide an incentive for more film companies to operate in the state.

The fiscal impact on the Commonwealth from HB 340 is estimated to be negative due to two primary factors. First, the base of film expenditures in Kentucky will now qualify for a larger credit. This negative fiscal effect will not be large ($1 million) because the size of Kentucky's current film sector is small. The larger—and perhaps more significant—negative fiscal impact is likely to come from Kentucky becoming more competitive in vying for film projects as a result of increased incentives.

There is a range of potential fiscal outcomes when considering the fiscal impact of HB 340. The range of outcomes will vary from little-to-no effect, to $30 million or more if the state attracts just one big budget film. Unlike the majority of other states which have placed an annual cap on the amount of credits awarded, Kentucky does not have a cap in place, nor does HB 340 establish a cap. To the extent Kentucky is successful in attracting new film production to the state, an uncapped program could have a significant and serious detrimental fiscal impact.

A survey of data on the featured films released in 2013 suggests that the average amount spent on films is approximately $71 million. However, this average is skewed because 26 of the large live action films cost significantly more than $100 million each; therefore just 4% of the films (26) accounted for a large percentage of total expenditures.

Survey data from 2013 suggests that one-quarter of the films produced cost less than $2 million to make and that 40% of the films produced in the US in 2013 cost less than $15 million each to produce. Given Kentucky's lack of an advanced film production facility, sound stage, or the necessary complement of technical workers in the film industry, it is not likely the state would land a big budget film. Rather, the most likely scenario is Kentucky might be successful in landing one or several mid-major films, or a number of independent films, due in part to the higher incentives offered under HB 340.

Given that a large portion of films cost $15 million or less, this was the valued used to develop the fiscal impact. Assuming this level of expenditures qualify for the minimum level of credits under HB 340, the fiscal impact would be minus $4.5 million. Since existing spending would also qualify for the credit, this effect would lead to an additional negative fiscal impact of $1 million. Overall, the total negative fiscal impact of HB 340 is estimated to be $5.5 million.

DATA SOURCE(S): Film and Television Production: Overview of Motion Picture Industry and State

Tax Credits, California Legislative Analyst Office, April 2014; 2013 Feature Film Production Report, 2014 Film L.A. Research Inc.; Economic Impact of the Film Industry in Kentucky, Economics Research Associates, October 2006.
PREPARER: **Perry Nutt, Staff Economist, Charlotte Quarles A/R staff** **NOTE NUMBER**: **14**
REVIEW: **GMR** **DATE**: **2/9/2015**

LRC 2015-BR1260HB340