

employees on all qualified payroll expenditures shall withhold at the maximum rate provided in KRS 141.020 and up to 100% of the individual income tax rate (**Section 20**).

Section 5:

Amends KRS 141.383 to define “loan-out entity” and “continuous film production” by reference to **Section 30**.

Clarifies that to qualify for the current \$75,000,000 refundable tax credit, the company shall begin filming in Kentucky within six months of approval by the Kentucky Economic Development Finance Authority and complete filming within two years of their production start date. Currently, the start and end dates are based on production, not filming. Filming and production are two distinct activities. This credit is extended to continuous film production companies (*Section 31*).

Beginning with calendar year 2024, \$25,000,000 shall be allocated for all approved companies with a continuous film production and any unused balance as of July 1 shall be made available for all approved companies with a motion picture entertainment production. (*Section 31 conforms to this allocation.*)

Section 20:

Amends KRS 154.25-040 to update the wage assessment calculation to address recent changes in income tax statutes. The wage assessment shall be equal to:

80% of the individual income tax rate if the project is in a local jurisdiction where:

- No local occupational license fee is imposed;
- A local occupational fee **greater or equal to 20%** of the state individual income tax rate; and the local jurisdiction agrees to forgo the local wage assessment of **at least 20%** of the individual income tax rate via credits against the local occupational license fee for the affected employees; or
- A local occupational license fee is **less than 20%** of the state individual income tax rate and the local jurisdiction agrees to forgo the **total amount** of the local occupational license fee as the local wage assessment

Up to four times the local wage assessment rate if the project is in a local jurisdiction where:

- A local occupational license fee **greater or equal to 20%** of the state individual income tax rate and the local jurisdiction agrees to forgo an amount of the local occupational license fee that is **less than 20%** of the individual income tax rate; or
- A local occupational license fee is **less than 20%** of the state individual income tax rate and the local jurisdiction agrees to forgo **a portion of the total amount** of the local occupational license fee as the local wage assessment.

The following sections deal with hydrogen transmission pipelines:

Section 22 defines hydrogen transmission pipelines to have the same meaning as carbon dioxide pipelines which is defined as the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that is used exclusively for the

purpose of transporting carbon dioxide to the point of sale, storage, or other carbon management applications. By doing so, companies against in hydrogen transmission activity qualify for the following programs as provided for in the following sections of this Act.

- **Section 7:** Bluegrass State Skills Corporation Grant-in-Aid and Skills Training Investment Credit programs.
- **Section 21:** Kentucky Enterprise Initiative Act
- **Section 22:** Kentucky Business Initiative program.
- **Section 26:** Kentucky Reinvestment Act

Section 8:

Amends KRS 154.12-207 to increase the limit from \$200,000 to \$500,000 per grant-in-aid that the Bluegrass State Skills Corporation may provide to qualified companies.

Section 18-19:

Amends KRS 154.20-586 and KRS 154.20-589 to require that the western Kentucky risk assistance fund shall be used to provide loan loss support payment to qualified lenders for commercial loans who have been accepted into the program and that, in the aggregate, have outstanding principal balances not exceeding *one hundred million* dollars. The *one hundred million* dollars maximum amount shall be proportionally reduced as the loss payments are disbursed. An administrative fee equal to 1% of the approved inducement amount shall be applied to the loss payment and may be deducted from the approved inducement amount.

Section 21:

Amends KRS 154.31-010 to define “tourism” to mean a tourism attraction project, a theme restaurant destination attraction project, an entertainment destination center project, or a lodging facility project.

Section 30:

Amends KRS 154.61-010 to:

- Expand the definition of “*employee*” as it pertains to subchapter 61 of KRS Chapter 154 to include the employees or independent contractors of an approved company or the employees of a loan-out entity engaged by an approved company.
- Define “*loan-out entity*” to mean a corporation, partnership, limited liability company, or other entity through which an artist or other person is loaned out to perform services for the approved company. A loan-out entity shall be registered and in good standing with the Kentucky Secretary of State. The loan-out entity and all other employees of and other persons performing services for the loan-out entity shall be subject to all applicable provisions of the Kentucky personal income tax and an applicable payroll or other tax provisions.
- Defines “continuous film production” to mean a motion picture or entertainment production that:

- has a projected budget of \$10,000,000 per calendar year, a minimum of \$1,500,000 per production in Kentucky, a minimum of 50% of the funds available with the ability to raise the remaining funds;
- demonstrates a distribution contract for each production;
- films for a minimum of 12 days per production within Kentucky;
- maintains an apprenticeship program or on-the-job training program; or
- partners with a film studies program with a Kentucky postsecondary school

The fiscal impact of HB 303 SCS 1 on local governments is indeterminable.

Local governments currently participating in one of the above programs may have to integrate administrative changes as a result of HB 303 SCS 1; for instance, occupational tax.

We don't know the number of film and production companies that might locate in Kentucky in the future nor the number of employees that will work for them in Kentucky.

In regards to the various incentive programs in Sections 7, 21, 22, and 26, we don't know the number of counties with employers that would qualify to participate in the programs.

The wage assessment fee discussed in Section 20 would have an impact on local occupational taxes, but again we don't know what jurisdictions would be affected and to what extent, and whether they would forego any part of their local occupational license fee. Any change in procedures or how the net tax is calculated may require ordinances. If so, according to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting an ordinance is influenced by its complexity and the amount of research that is necessary. FY 2020 data reflected the average hourly rate was \$107. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II refers to HB 303 SCS 1. The SCS 1 version keeps the provisions of the GA version with the following changes:

- Provides for the allocation of funds and extends it to continuous film production companies.
- Provides a definition of "continuous film production".

The GA version of HB 303 is the same as the bill introduced. HB 303 passed its chamber of origin without amendments or substitutes.

Data Source(s): LRC Staff, Kentucky League of Cities

Preparer: WB(MS) **Reviewer:** KHC **Date:** 3/16/23