

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1853

H.P. 1338

House of Representatives, April 2, 2014

**An Act Requiring a Dynamic Fiscal Analysis of Changes to Visual
Media Production Tax Credits and Reimbursements**

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KNIGHT of Livermore Falls. (GOVERNOR'S BILL)
Cosponsored by Senator VALENTINO of York and Representatives: BERRY of
Bowdoinham, BROOKS of Winterport, FREDETTE of Newport, HAMANN of South
Portland, STANLEY of Medway, Senators: HILL of York, LANGLEY of Hancock,
THIBODEAU of Waldo.

1 H. Provide a projected schedule for preproduction, production and postproduction of
2 the visual media production that shows that the production will begin within 60 days
3 after certification pursuant to this subsection.

4 To qualify for a visual media production certificate, a visual media production company
5 must demonstrate to the satisfaction of the commissioner that the visual media production
6 company has met, or will meet, the requirements of this subsection. If the department
7 determines that the applicant does not qualify for a visual media production certificate, it
8 must inform the applicant of that determination in writing within 4 weeks of receiving the
9 application. As soon as practicable, the department shall issue a visual media production
10 certificate for a visual media production that qualifies. The department shall include with
11 the certificate information regarding the tax credit report under subsection 4 and
12 procedures for claiming reimbursement under Title 36, chapter 919-A ~~and the credit~~
13 ~~under Title 36, section 5219-Y.~~

14 **5. Department to provide information to State Tax Assessor.** The department
15 shall provide to the State Tax Assessor copies of the visual media production certificate
16 issued pursuant to subsection 3, together with any other information reasonably required
17 by the State Tax Assessor for the administration of visual media production
18 reimbursement under Title 36, chapter 919-A ~~and the credit under Title 36, section~~
19 ~~5219-Y.~~

20 **7. Report.** The Maine State Film Office shall submit a report by January 15th
21 annually to the joint standing committee of the Legislature having jurisdiction over
22 taxation matters regarding the certification and reporting process pursuant to this section
23 and the visual media production ~~tax credit and~~ reimbursement activities pursuant to ~~Title~~
24 ~~36, section 5219-Y and~~ Title 36, chapter 919-A. The report must include a description of
25 any rule-making activity related to the implementation of the ~~credit and~~ reimbursement
26 activities, outreach efforts to visual media production companies, the number of
27 applications for the visual media production ~~credit and~~ tax reimbursement, the number of
28 ~~credits and~~ reimbursements granted, the revenue loss associated with the ~~credit and~~
29 reimbursement and the amount of visual media production expenses generated in the
30 State as a result of the ~~credit and~~ reimbursement.

31 **Sec. B-2. 5 MRSA §13090-M, sub-§4, ¶E,** as enacted by PL 2011, c. 372, §1, is
32 amended to read:

33 E. A signed agreement with the department provides that the project or production
34 will not be the basis for a claim for ~~an income tax credit under Title 36, section~~
35 ~~5219-Y or~~ reimbursement under Title 36, chapter 919-A.

36 **Sec. B-3. 36 MRSA §191, sub-§2, ¶MM,** as amended by PL 2009, c. 652, Pt. A,
37 §51, is further amended to read:

38 MM. The disclosure to an authorized representative of the Department of Economic
39 and Community Development of information required for the administration of ~~the~~
40 ~~visual media production credit under section 5219-Y,~~ the employment tax increment
41 financing program under chapter 917, the visual media production reimbursement
42 program under chapter 919-A or the Pine Tree Development Zone program under
43 Title 30-A, chapter 206, subchapter 4;

1 **Sec. B-4. 36 MRSA §5219-Y**, as amended by PL 2011, c. 240, §37, is repealed.

2 **Sec. B-5. 36 MRSA §6901, sub-§2**, as amended by PL 2011, c. 240, §45 and
3 affected by §47, is further amended to read:

4 **2. Certified production wages.** "Certified production wages" means wages subject
5 to withholding under section 5250, subsection 1 that are paid by a visual media
6 production company for work on a certified visual media production. "Certified
7 production wages" includes an amount paid to a temporary employee-leasing company
8 for personal services rendered in this State by a leased employee in connection with a
9 certified visual media production and an amount paid for the services of a performing
10 artist working in the State in connection with a certified visual media production and
11 other contractual payments for the services of individuals working in the State. "Certified
12 production wages" includes only the first ~~\$50,000~~ \$100,000 paid to or with respect to a
13 particular individual for personal services rendered in connection with a particular
14 certified visual media production.

15 **Sec. B-6. 36 MRSA §6902, sub-§1**, as amended by PL 2011, c. 240, §46, is
16 further amended to read:

17 **1. Generally.** A visual media production company is allowed a reimbursement
18 equal to ~~12%~~ 25% of certified production wages paid to or with respect to an individual
19 who is a resident of Maine and 10% of certified production wages paid to or with respect
20 to an individual who is not a resident of Maine.

21 **Sec. B-7. 36 MRSA §6902, sub-§1-A** is enacted to read:

22 **1-A. Reimbursement for expenses.** A visual media production company is allowed
23 a reimbursement in an amount equal to 20% of its nonwage visual media production
24 expenses incurred with respect to a certified visual media production if the visual media
25 production company has visual media production expenses of \$75,000 or more with
26 respect to that certified visual media production. For purposes of this section, "nonwage
27 visual media production expenses" has the same meaning as in Title 5, section 13090-L,
28 subsection 2-A, paragraph F, except that "nonwage visual media production expenses"
29 does not include certified production wages or any amount that would be included in
30 certified production wages but for the \$100,000 limit provided by section 6901,
31 subsection 2.

32 **Sec. B-8. Contingent effective date.** This Part takes effect only if the
33 Department of Administrative and Financial Services, Maine Revenue Services and the
34 Office of Fiscal and Program Review jointly report to the Joint Standing Committee on
35 Taxation that the result of the dynamic fiscal analysis pilot project conducted pursuant to
36 Part A is a positive fiscal impact on state revenue. Maine Revenue Services and the
37 Office of Fiscal and Program Review shall provide a copy of their joint report and certify
38 to the Secretary of State and the Office of the Revisor of Statutes the determination as to
39 the positive or negative fiscal impact on state revenue of the pilot project conducted
40 pursuant to Part A.

1 **Emergency clause.** In view of the emergency cited in the preamble, this
2 legislation takes effect when approved.

3 **SUMMARY**

4 Part A of this bill creates a pilot project to develop and evaluate a tax simulation
5 model for state dynamic fiscal analysis of potential changes to the certified visual media
6 production credit established in the Maine Revised Statutes, Title 36, section 5219-Y and
7 the visual media production reimbursement established in Title 36, section 6902. The
8 Department of Economic and Community Development is permitted to enter into a
9 memorandum of understanding with the University of Maine to conduct the pilot project.
10 The Department of Administrative and Financial Services, Maine Revenue Services and
11 the Office of Fiscal and Program Review are required to evaluate the findings of the pilot
12 project and to jointly report to the Joint Standing Committee on Taxation whether the
13 proposed changes to the visual media production credit and reimbursement would result
14 in a negative or positive fiscal impact.

15 Part B of this bill repeals the certified visual media production credit and instead
16 increases the reimbursement amount for certified production wages paid from 12% to
17 25% for residents of Maine, increases the cap on the reimbursement of wages from
18 \$50,000 to \$100,000 and provides for a reimbursement of 20% of nonwage visual media
19 production expenses. These changes take effect only if the result of the joint finding of
20 Maine Revenue Services and the Office of Fiscal and Program Review is that the changes
21 proposed in this Part would result in a positive fiscal impact on state revenue.