LOUISIANA LEGISLATIVE AUDITOR
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LOUISIANA DEPARTMENT OF ECONOMIC DEVELOPMENT AND LOUISIANA DEPARTMENT OF REVENUE MOTION PICTURE TAX CREDIT PROGRAM

BATON ROUGE – Louisiana's motion picture tax credit program generated about $5.40 in the economy for every $1 in tax credits approved by state economic development officials, but the overall fiscal impact of the program on the state was negative, according to a report released by the legislative auditor's office Monday.

The performance audit, which relied on a report submitted to the Louisiana Department of Economic Development by its consultant, the BaxStarr Consulting Group, says that in the 2010 calendar year, LED granted $196.8 million in motion picture tax credits for productions that incurred expenses in the state.

In return, the state received $27 million in taxes in 2010. "While the economic output of the program is positive and shows that the industry is growing," the audit said, "the direct cost, or fiscal impact, to state government is negative. The result is a net cost to state government of $169.8 million for calendar year 2010."

The consultant report on the program also showed local governments received $17.3 million in tax revenue in 2010.

The consultant report said in the period from 2008 through 2010, LED approved $431.5 million in tax credits and received $62.8 million in tax revenues in return, for a net cost to the state of $368.7 million. The BaxStarr report said the economic impact of the tax credit program on the overall economy during the same three-year period was $2.46 billion.

The next fiscal and economic impact analysis is expected to be released by LED this month, the report said.

The report said the agency relies on certified public accountants hired by the production companies to audit cost reports of the expenditures and verify them as eligible.

LED then conducts its own review of the cost reports and checks the work of the CPAs. The performance audit found that in a sample of 29 cost reports, LED disallowed expenses in 38 percent of the cases.

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"The CPA audits along with LED's internal review process provided reasonable assurance that credits" are generally granted for only eligible production expenditures, the legislative auditor's report said. "However, a process that provides reasonable assurance cannot completely eliminate all occurrences of fraud. This is especially true if the fraud scheme involves collusion."

Charges were filed recently by U.S. Attorneys against two individuals for a conspiracy to defraud LED of approximately $1.2 million of tax credits to which they were not entitled through the use of interstate wire communications.

The audit recommended that the Legislature consider giving LED more authority in selecting the CPAs used by the production companies to audit their cost reports.

State law allows the production companies to choose the CPAs to audit their cost reports before submitting them to LED. According to the report, "If LED had some authority or role in selecting CPAs used by the production companies, such as choosing the CPA, approving the CPA, or developing a list of acceptable CPAs, the department could eliminate the production company's use of CPAs who consistently submit reports with errors."

The performance audit also found that LED accurately calculated the majority of tax credits; however, some credits were incorrectly calculated for productions that were certified around the time statutory changes were made to the rates.

Currently, the statutes provide for the tax credit to be granted at 30 percent of a production's eligible expenditures and an additional 5 percent for expenditures incurred on the payroll of Louisiana residents.

The law also allows for the tax credits to be transferred back to LED for 85 percent of their face value. According to the audit, LED did not collect all processing fees associated with the transfer of credits. In a sample of 29 transfers, LED did not collect the processing fee for 35 percent of the cases.

The auditors were unable to accurately calculate the amount of revenue lost from not collecting the fees due to a lack of available data on transferred credits. "We estimate that a minimum of $408,400 was not collected in fees for the 2007 tax year alone," the report said.

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