

HOUSE BILL REPORT

HB 1554

As Reported by House Committee On:
Community Development & Housing

Title: An act relating to Washington's motion picture competitiveness.

Brief Description: Concerning Washington's motion picture competitiveness.

Sponsors: Representatives Kenney, Orcutt, Pettigrew, Parker, Ormsby, Walsh, Maxwell, Billig and Smith.

Brief History:

Committee Activity:

Community Development & Housing: 2/3/11, 2/10/11 [DPS].

Brief Summary of Substitute Bill

- Changes the expiration date for earning business and occupation tax credits for the Washington Motion Picture Competitiveness Program (Program) from July 1, 2011, to July 1, 2017.
- Increases the annual credit limit of \$3,500,000 to \$4 million in 2011, and \$5.5 million for 2014 through 2017, with incremental increases in between.
- Increases the allowable uses and percentage of funding that may be credited for specific purposes.
- Modifies definitions and expands the Program's board by one member.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kenney, Chair; Finn, Vice Chair; Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Maxwell, Ryu, Santos and Walsh.

Staff: Jennifer Thornton (786-7147).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2006 through Second Substitute Senate Bill (2SSB) 6558, the Washington Legislature created the Motion Picture Competitiveness Program (Program) with the intent of maintaining Washington's position as a competitive location for filming motion pictures, television, and television commercials. The Program allows taxpayers that contribute to an incentive fund to receive a credit against their business and occupation tax for the full amount contributed. Qualifying production companies that film in Washington can apply for payment from the incentive fund.

The Department of Community, Trade and Economic Development (now the Department of Commerce) was directed to adopt criteria for an approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. The Department of Commerce (Department) was also directed to adopt rules, within established criteria, for awarding incentive payments to production companies. Additionally, the Department was required to create and annually collect surveys from the production companies receiving the incentives, and to provide statistical reports to the Legislature based on the information in the surveys.

The 2006 Legislation called for the creation of a nonprofit corporation to administer the incentive payments to production companies. Washington Filmworks, the nonprofit corporation, processes the production companies' applications for incentive payments pursuant to Department rules.

The tax credit is set to expire July 1, 2011. The 2SSB 6558 directed the Joint Legislative Audit and Review Committee (JLARC) to review the effectiveness of the Program and make a recommendation to the Legislature by December 1, 2010, regarding the effectiveness of the Program. The JLARC review found the following:

1. Washington's share of film industry employment has remained relatively consistent even as more states are competing for film work. Currently, 44 states provide film incentives.
2. Due to weaknesses in reporting requirements, data reported by the production companies regarding the tax revenue and job impacts of the incentive were unreliable. Using other sources, the JLARC determined the following impacts:
 - For the calendar years 2007 through 2009, the JLARC estimated \$837,000 in sales tax revenues from expenditures by production companies receiving incentives.
 - There was an increase in film industry jobs in Washington from 2002 through 2008, with a decline in 2009. Between 2002 and 2009, the average Washington film industry salary was \$3,000 to \$10,000 lower than the average salary for all Washington industries.
 - Trade unions paid worker health and retirement benefits in 83 percent of the productions receiving incentive money. Washington Filmworks required production companies in the remaining projects to provide evidence that the company provided benefits.
 - The JLARC estimated that each dollar spent in Washington by the film industry yields \$1.99 of economic activity in the state and local economies. Production companies receiving incentive payments spent \$36 million in Washington since the beginning of the program through 2009, which results in

a calculated economic impact of \$72 million. This impact does not include any potential effects from tourism nor does it include the lost economic activity that could result from the loss of state revenues through the tax credit.

The JLARC review made the following two recommendations:

1. Because Washington has maintained its position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.
2. If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.

Summary of Substitute Bill:

The "approved Motion Picture Competitiveness Program's" sole purpose to revitalize the state's economic, cultural, and educational standing in the national and international market of motion picture production is expanded to also include assisting and providing services for attracting the film industry.

The definition of "motion picture" is changed to encompass recorded audio-visual production intended for distribution to the public for exhibition in public and/or private settings by means of any and all delivery systems and/or delivery platforms now or hereafter known.

The provision allowing the Program funding to be used for a tax credit marketer to market the tax credits is removed.

The maximum funding of up to 30 percent of total actual investment of at least \$300,000 per television episode produced in Washington is increased to 35 percent when six or more episodes of a series are produced in Washington.

For motion pictures and episodic series, up to 15 percent of the total actual investment for costs associated with non-state labor may be used as long as 85 percent of the production's labor force is Washington residents. The Program's board may establish additional criteria to maximize the use of in-state labor.

The program may annually allocate up to 10 percent of the qualifying program contributions to provide funding support for filmmakers who are Washington residents, new forms of production, and emerging technologies of:

- up to 30 percent of the actual investment for a motion picture with an actual investment lower than the \$500,000 investment required for a motion picture; or
- up to 30 percent of the actual investment of an interactive motion picture intended for multiplatform exhibition and distribution.

One member representing Washington interactive media or the emerging motion picture industry is added to the Program's board.

The annual calendar year credit limit of \$3,500,000 is increased to:

- \$4 million beginning 2011;
- \$500,000 more than the previous year, for 2012 through 2014; and
- a maximum of \$5.5 million for 2014 through 2017.

The last date during which business and occupation tax credits may be earned for contributions is moved from July 1, 2011, to July 1, 2017.

The Program, in collaboration with the Department and the Department of Revenue (DOR), and in consultation with the JLARC, is required to develop a survey form and instructions meeting specified criteria by November 1, 2011. The Program is directed to monitor the survey information submitted by production companies for completeness and accuracy.

Substitute Bill Compared to Original Bill:

The annual credit limit is changed to \$4 million in 2011, and \$5.5 million for 2014 through 2017, with incremental increases in between.

The Program, in collaboration with the Department and the Department of Revenue (DOR), and in consultation with the JLARC, must develop a survey form and instructions meeting specified criteria by November 1, 2011.

The survey requirements are modified in the following ways:

- the total amount of taxes paid, and taxes paid classified by type are added;
- the average number of hours worked by employed individuals is added;
- the number of employment positions filled by Washington residents, and residency information for employment positions filled by people from other locations are added;
- the average base pay of individuals employed by motion picture companies is added;
- the full-time, part-time, and temporary employment positions as a percent of total employment is removed; and
- the number of employment positions, according to specified wage bands, is removed.

The Program is directed to monitor the survey information submitted by production companies for completeness and accuracy.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Currently, 44 states provide film incentives. Washington's share of film employment has remained fairly consistent, but the state will not remain competitive without a tax incentive. Washington has incentivized 59 motion pictures since the program started, and there has been an equal balance between eastern and western Washington. Washington is the only state film incentive program that looks at health and retirement benefits. There is a multiplier effect to this industry. There has been \$54 million in direct spending and a \$107 million impact across the state. It is immediate job creation. When something gets approved, it is in production in a month. The Program's board has stringent and thoughtful provisions about awarding funds. There are built in checks and balances to ensure the money was spent as intended. The full board reviews applications and votes on the incentive.

(Opposed) None.

Persons Testifying: Representative Kenney, prime sponsor; Becky Bogard, Amy Lillard, and Chris Mefford, Washington Filmworks; and Greg Smith, International Alliance of Theatrical Stage Employees.

Persons Signed In To Testify But Not Testifying: None.