

HOUSE BILL REPORT

2SSB 5539

As Reported by House Committee On: Ways & Means

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

Brief Description: Concerning Washington's motion picture competitiveness.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Prentice, White, Kilmer, Brown and McAuliffe).

Brief History:

Committee Activity:

Ways & Means: 5/23/11 [DPA].

Brief Summary of Second Substitute Bill (As Amended by House)

- 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 allowable uses and percentage of funding that may be credited for specific purposes.
- Modifies definitions and expands the Program's board by one member.
- Adds additional survey and reporting requirements to acquire additional Program data.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended. Signed by 25 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Ross, Schmick, Springer, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 1 member: Representative Seaquist.

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.

Staff: Jeffrey Mitchell (786-7139).

Background:

In 2006 the 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. Qualifying production companies that film in Washington can apply for payment from the incentive fund, with the total amount of tax credits granted in a calendar year not to exceed \$3.5 million.

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 June 30, 2011. The 2006 legislation 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 constant 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.

- Each dollar spent in Washington by the film industry was estimated to yield \$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, resulting 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 Amended 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 to use funding 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 last date during which business and occupation tax credits may be earned for contributions is moved from June 30, 2011, to June 30, 2017. The statewide cap for the business and occupation tax credit is reduced from \$3.5 million to \$1.75 million.

The Program, in collaboration with the Department and the Department of Revenue, and in consultation with the JLARC, is required to develop a survey form and instructions containing specified information on taxes, hours worked, employment positions, and wages by November 1, 2011. The Program is directed to monitor the survey information submitted by production companies for completeness and accuracy.

Amended Bill Compared to Second Substitute Bill:

The statewide cap for the business and occupation tax credit is reduced from \$3.5 million to \$1.75 million.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) Per the JLARC study, each dollar invested in this program yielded \$1.99. Washington Filmworks received a positive review in the JLARC study because the tax credit has maintained Washington's position as a competitive location for filming. In an update to the JLARC numbers, through 2010, there was \$54 million in direct spending. There has been an incremental year over year increase. Filming activity happens statewide, and this allows Washington to continue to be put on the map. These projects do not come to Washington without this incentive.

There are not too many jobs right now, and the jobs supported by this tax credit are needed. Washington's tax preference is critical, and it is the only film program in the country that requires health insurance in order to participate.

The Legislature should continue the preference and review the Program at a later period. The Department did not have all the data that Washington Filmworks requires. In response, new information is required in the bill.

(With concerns) The level of funding in this proposal is concerning. The budget cuts an array of services, and this would lead to an additional \$7 million that is not available for programs.

(Opposed) None.

Persons Testifying: (In support) Gordon Baxter, Teamsters Local 174; Becky Bogard and Amy Lillard, Washington Filmworks; and Greg Smith, International Alliance of Theatrical and Stage Employees Local 488.

(With concerns) Nick Federici, Protecting our Economic Future Coalition.

Persons Signed In To Testify But Not Testifying: None.