HOUSE BILL REPORT
E2SSB 5539

As of Second Reading

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:

Community & Economic Development & Housing: 2/16/12, 2/20/12 [DP].
Ways & Means: 3/7/12.

Floor Activity:

Passed Senate: 2/14/12, 40-8.

Brief Summary of Engrossed Second 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 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 COMMUNITY & ECONOMIC DEVELOPMENT & HOUSING

Majority Report: Do pass. Signed by 8 members: Representatives Kenney, Chair; Finn, Vice Chair; Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Maxwell, Ryu and Walsh.

Minority Report: Without recommendation. Signed by 1 member: Representative Santos.

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: Jennifer Thornton (786-7147).

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 tax credit expired on June 30, 2011.

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, a nonprofit corporation, processes the production companies' applications for incentive payments pursuant to Department rules.

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 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 comprised of 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 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, 2012. The Program is directed to monitor the survey information submitted by production companies for completeness and accuracy.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill only has a date change from the bill you passed out of this committee unanimously last year. It is upsetting to go to see a movie that purports to be about Washington when it is made in Oregon or British Columbia. "The Killing" was supposed to take place in Ballard, but it was filmed in Vancouver. We got the benefit of a few exterior shots, but British Columbia benefitted from all the jobs. For the 12 episodes filmed last year, a total of $24 million was received by British Columbia's economy, which should have been here. This legislation is the model of what a tax incentive or tax preference should be. There was a review and recommendation by JLARC that the Program works, and that it should be continued and re-reviewed at a later time. Only several others have been recommended by JLARC for continuation. There is a sunset date, and this bill incorporates the JLARC's recommended reporting changes. This bill provides good jobs, and this tax incentive has transparency and accountability. Filmmakers must prove they created jobs and spent money in Washington. We are the only film incentive program in the nation that requires health and retirement benefits. The film industry is an important catalyst for jobs now and innovation for our future. Between February 2007 and June 2011, this program created over 4,800 jobs for Washington residents, which put $31.2 million in the pockets of residents in the form of wages, and health and retirement benefits. Productions have been split pretty evenly east and west of the mountains. This is a terrific program that brings money, tourism, and economic development into the state. Without a film incentive, business will not come.

(Oppose) None.

Staff Summary of Public Testimony (Ways & Means):

(In support) Washington Filmworks was patterned after the Main Street Program. It uses the same mechanism where taxpayers give to a nonprofit and get a tax credit. The JLARC reviewed the program and said that it helped maintain Washington's competitive position among other states with incentive programs. The JLARC also criticized the reporting, which has been significantly increased in this legislation. It is concerning that there are studies by the Center on Budget and Policy Priorities and the Tax Foundation that have been cited as proof that film incentives are not good public policy. These findings are not relevant to Washington's program.

Over the last several years, Washington Filmworks was primarily responsible for bringing jobs to Washington. There are decent paying, health care providing jobs that will go elsewhere without a program. The Washington State Labor Council unanimously supports this incentive because of its accountability, transparency, and job creation, and because the incentive is not given until after the jobs are created.

(Neutral) The history of state tax subsidies is not good. In 2010 economist Robert Tannenwald found that film tax credits have little bang for the buck and subsidize activities that would have happened anyway, the best jobs tend to go to nonresidents, and the costs tend to outweigh the benefits. There are good, solid accountability and transparency mechanisms in this legislation. If this is a priority, the Legislature should eliminate a tax break of equal or greater value to pay for it.

(Opposed) None.

Persons Testifying: Senator Kohl-Welles, prime sponsor; Becky Bogard and Amy Lillard, Washington Filmworks; and Rebecca Johnson, Washington State Labor Council.

Persons Testifying (Ways & Means): (In support) Becky Bogard and Amy Lillard, Washington Filmworks; Greg Smith, International Alliance of Theatrical and Stage Employees Local 488; and Rebecca Johnson, Washington State Employment Council.

(Neutral) Andy Nicholas, Washington State Budget and Policy Center.

Persons Signed In To Testify But Not Testifying: None.