SENATE BILL REPORT
SB 5539

As of February 10, 2011

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

Brief Description: Concerning Washington's motion picture competitiveness.

Sponsors: Senators Kohl-Welles, Prentice, White, Kilmer, Brown and McAuliffe.

Brief History:
Committee Activity: Labor, Commerce & Consumer Protection: 2/07/11.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Ingrid Mungia (786-7423)

Background: The Washington Legislature created the Motion Picture Competitiveness Program in 2002 with the intent of maintaining Washington's position as a competitive location for filming motion pictures, television, and television commercials. The Motion Picture Competitiveness 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 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 the Department rules.

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.

The tax credit is set to expire July 1, 2011. SSB 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 motion picture competitiveness 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 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 Motion Picture Competitiveness 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 services, 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 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:

1. 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
2. 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 board.

The annual calendar year credit limit of $3.5 million is increased to:

- $7 million beginning 2011;
- $1 million more than the previous year, for 2012 through 2014; and
- a maximum of $10 million for 2014 though 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.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The motion picture industry is critically important to nurture in our state. Money is brought into our state and local talent is used. We have an absolutely beautiful state; film makers and commercial makers want to be here. So many films are shot here momentarily and then the rest are shot in other states or in British Columbia. It is important to reauthorize this program and keep up with other states who have similar programs. The program was designed to be competitive with Oregon. Washington State has the only incentive program that required film makers to provide health and pension benefits. We agree with the JLARC recommendation that we need increased accountability. Without this incentive program, there will not be filming in Washington State. It is important to renew this program. The program creates jobs. There are currently 44 other states that have incentive programs; when we started, there were just 18 state programs. Revising the production survey will help increase accountability. Washington is having a hard time getting television programs to film here in the state. Increasing the incentive credit will give our community of actors the ability to live in the place they love. Renewal of the Competitiveness Program will continue film companies' support for state strengths in computer gaming, software, internet development, music, and other industries. Washington State's strengths in technology create future competitive advantages for local film workers and production companies to leverage.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Chris Mefford, Community Attributes; Abby Dylan, Screen Actors Guild, Washington Filmworks; Amy Lillard, Washington Filmworks; Becky Bogard, Washington Filmworks.