

# FINAL BILL REPORT

## E2SSB 5539

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Synopsis as Enacted

**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).

**Senate Committee on Labor, Commerce & Consumer Protection**

**Senate Committee on Ways & Means**

**House Committee on Ways & Means**

**House Committee on Community & Economic Development & Housing**

**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 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, SSB 6558, 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.

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

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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 compete 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, JLARC determined the following impacts:

1. For calendar years 2007 through 2009, JLARC estimated \$837,000 in sales tax revenues from expenditures by production companies receiving incentives.
2. 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.
3. 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.
4. 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:** 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 are Washington residents. The Filmworks 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 Filmworks board.

The annual calendar year credit limit is \$3.5 million.

The Motion Picture Competitiveness Program in collaboration with the Department and the Department of Revenue and in consultation with JLARC must develop a survey form and instructions. The survey must be designed to acquire data to allow the state to better measure the effectiveness of the program and to provide transparency of the program. The instructions must provide sufficient detail to ensure consistent reporting.

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 date that the Motion Picture Competiveness Program must develop a survey and instructions for recipients of funds is changed from November 1, 2011, to November 1, 2012.

**Votes on Final Passage:**

Senate	30	16
Senate	40	8
House	92	6

**Effective:** June 7, 2012