
SUBSTITUTE SENATE BILL 5502

State of Washington

65th Legislature

2017 Regular Session

By Senate Agriculture, Water, Trade & Economic Development
(originally sponsored by Senators Becker, Frockt, Baumgartner, Fain,
Rolfes, Rivers, Billig, Zeiger, Darneille, Keiser, Hunt, and Saldaña)

READ FIRST TIME 02/15/17.

1 AN ACT Relating to modifying Washington state's motion picture
2 and film industries tax credit; amending RCW 82.04.4489 and
3 43.365.010; adding a new section to chapter 82.04 RCW; creating a new
4 section; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
7 performance statement for the tax preferences contained in sections 2
8 and 3 of this act. This performance statement is only intended to be
9 used for subsequent evaluation of the tax preferences. It is not
10 intended to create a private right of action by any party or be used
11 to determine eligibility for preferential tax treatment.

12 (2) The legislature categorizes these tax preferences as ones
13 intended to create or retain jobs as indicated in RCW
14 82.32.808(2)(c).

15 (3) It is the legislature's specific public policy objective to
16 increase the viability of the motion picture and film industry and
17 associated creative industries in Washington state. It is the
18 legislature's intent to increase the credit available to qualifying
19 activities in order to attract additional motion picture and film
20 projects, thereby increasing family-wage jobs.

1 (4) If a review finds that the jobs attributable to these
2 projects increase by at least ten percent over the jobs in the state
3 since 2016, then the legislature intends to extend the expiration
4 date of the tax preference.

5 (5) In order to obtain the data necessary to perform the review
6 in subsection (4) of this section, the joint legislative audit and
7 review committee may refer to data provided to the department of
8 revenue pursuant to RCW 82.04.4489(9) and the annual survey required
9 under RCW 43.365.040.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
11 RCW to read as follows:

12 (1) In addition to the annual monetary limitations of RCW
13 82.04.4489(6), a credit is allowed against the tax imposed under this
14 chapter for contributions made by a person to a Washington motion
15 picture competitiveness program for a major motion picture that
16 portrays a significant historical event in Washington.

17 (2)(a) The credit in subsection (1) of this section is available
18 for contributions made in calendar years 2017, 2018, and 2019.
19 However, the statewide amount of credit that can be claimed for all
20 three calendar years may not exceed three million dollars.

21 (b) Credits are available on a first in-time basis. The
22 department must disallow any credits, or portion thereof, that would
23 cause the total amount of credits claimed under this section to
24 exceed the limit in (a) of this subsection (2). If this limitation is
25 reached, the department must notify all Washington motion picture
26 competitiveness programs that the statewide limit has been met and
27 all credits claimed in excess of the statewide limit must be repaid.

28 (3) The credit under this section is not subject to the annual
29 per person limits in RCW 82.04.4489 (2) and (3).

30 (4) Unless otherwise indicated, the credit under this section is
31 subject to all other provisions of RCW 82.04.4489.

32 (5)(a) If a major motion picture that portrays a significant
33 historical event in Washington has not begun filming in Washington by
34 July 1, 2019:

35 (i) Any credits previously awarded and claimed under this section
36 must be repaid to the department by December 31, 2019; and

37 (ii) Any credits previously awarded, but not claimed, under this
38 section may not be claimed as of July 1, 2019. If a credit was
39 awarded under this section, but was not used, the credit is void.

1 (b) The Washington motion picture competitiveness program must
2 provide written notification to the department by August 1, 2019, as
3 to whether a major motion picture that portrays a significant
4 historical event in Washington began filming in Washington by July 1,
5 2019.

6 (6) The department must provide written notice to any person who
7 must repay tax credits claimed under this section. The notice must
8 indicate the amount of tax due and provide that the tax be paid
9 within thirty days from the date of the notice, except as provided in
10 subsection (5)(a) of this section. The department may not assess
11 penalties and interest as provided in chapter 82.32 RCW on the amount
12 due in the initial notice if the amount due is paid by the due date
13 specified in the notice, or any extension thereof.

14 (7) For the purposes of this section, a "major motion picture
15 that portrays a significant historical event in Washington" means a
16 motion picture that a Washington motion picture competitiveness
17 program determines is being filmed for theatrical release with a
18 total budget of at least twenty million dollars that portrays an
19 event that occurred, at least in part in Washington state, during the
20 twentieth century.

21 (8) This section expires January 1, 2020.

22 **Sec. 3.** RCW 82.04.4489 and 2012 c 189 s 4 are each amended to
23 read as follows:

24 (1) Subject to the limitations in this section, a credit is
25 allowed against the tax imposed under this chapter for contributions
26 made by a person to a Washington motion picture competitiveness
27 program.

28 (2) The person must make the contribution before claiming a
29 credit authorized under this section. Credits earned under this
30 section may be claimed against taxes due for the calendar year in
31 which the contribution is made. The amount of credit claimed for a
32 reporting period may not exceed the tax otherwise due under this
33 chapter for that reporting period. No person may claim more than one
34 million dollars of credit in any calendar year, including credit
35 carried over from a previous calendar year. No refunds may be granted
36 for any unused credits.

37 (3) The maximum credit that may be earned for each calendar year
38 under this section for a person is limited to the lesser of one
39 million dollars or an amount equal to one hundred percent of the

1 contributions made by the person to a program during the calendar
2 year.

3 (4) Except as provided under subsection (5) of this section, a
4 tax credit claimed under this section may not be carried over to
5 another year.

6 (5) Any amount of tax credit otherwise allowable under this
7 section not claimed by the person in any calendar year may be carried
8 over and claimed against the person's tax liability for the next
9 succeeding calendar year. Any credit remaining unused in the next
10 succeeding calendar year may be carried forward and claimed against
11 the person's tax liability for the second succeeding calendar year;
12 and any credit not used in that second succeeding calendar year may
13 be carried over and claimed against the person's tax liability for
14 the third succeeding calendar year, but may not be carried over for
15 any calendar year thereafter.

16 (6) Credits are available on a first in-time basis. The
17 department must disallow any credits, or portion thereof, that would
18 cause the total amount of credits claimed under this section during
19 any calendar year to exceed three million five hundred thousand
20 dollars. If this limitation is reached, the department must notify
21 all Washington motion picture competitiveness programs that the
22 annual statewide limit has been met. In addition, the department must
23 provide written notice to any person who has claimed tax credits in
24 excess of the limitation in this subsection. The notice must indicate
25 the amount of tax due and provide that the tax be paid within thirty
26 days from the date of the notice. The department may not assess
27 penalties and interest as provided in chapter 82.32 RCW on the amount
28 due in the initial notice if the amount due is paid by the due date
29 specified in the notice, or any extension thereof.

30 (7) To claim a credit under this section, a person must
31 electronically file with the department all returns, forms, and any
32 other information required by the department, in an electronic format
33 as provided or approved by the department. Any return, form, or
34 information required to be filed in an electronic format under this
35 section is not filed until received by the department in an
36 electronic format. As used in this subsection, "returns" has the same
37 meaning as "return" in RCW 82.32.050.

38 (8) No application is necessary for the tax credit. The person
39 must keep records necessary for the department to verify eligibility
40 under this section.

1 (9) A Washington motion picture competitiveness program must
2 provide to the department, upon request, such information needed to
3 verify eligibility for credit under this section, including
4 information regarding contributions received by the program.

5 (10) The department may not allow any credit under this section
6 before July 1, 2006.

7 (11) For the purposes of this section, "Washington motion picture
8 competitiveness program" or "program" means an organization
9 established pursuant to chapter 43.365 RCW.

10 (12) No credit may be earned for contributions made on or after
11 July 1, ((2017)) 2027.

12 **Sec. 4.** RCW 43.365.010 and 2012 c 189 s 1 are each amended to
13 read as follows:

14 The ((following)) definitions in this section apply ((to))
15 throughout this chapter((7)) unless the context clearly requires
16 otherwise.

17 (1) "Approved motion picture competitiveness program" means a
18 nonprofit organization under the internal revenue code, section
19 501(c)(6), with the sole purpose of revitalizing the state's
20 economic, cultural, and educational standing in the national and
21 international market of motion picture production and associated
22 creative industries and assisting and providing services for
23 attracting the film industry and associated creative industries, by
24 recommending and awarding financial assistance for costs associated
25 with motion pictures in the state of Washington.

26 (2) "Contribution" means cash contributions.

27 (3) "Costs" means actual expenses of production and
28 postproduction expended in Washington state for the production of
29 motion pictures, including but not limited to payments made for
30 salaries, wages, and health insurance and retirement benefits, the
31 rental costs of machinery and equipment and the purchase of services,
32 food, property, lodging, and permits for work conducted in Washington
33 state.

34 (4) "Department" means the department of commerce.

35 (5) "Funding assistance" means cash expenditures from an approved
36 motion picture competitiveness program.

37 (6) "Motion picture" means a recorded audiovisual production
38 intended for distribution to the public for exhibition in public
39 and/or private settings by means of any and all delivery systems

1 and/or delivery platforms now or hereafter known, including without
2 limitation, screenings in motion picture theaters, broadcasts and
3 cablecast transmissions for viewing on televisions, computer screens,
4 and other audiovisual receivers, viewings on screens by means of
5 digital video disc (DVD) players, video on demand (VOD) services, and
6 digital video recording (DVR) services, direct internet transmission,
7 and viewing on digital computer-based systems which respond to the
8 users' actions (interactive media).

9 (7) "Person" has the same meaning as provided in RCW 82.04.030.

--- END ---