
SENATE BILL 5502

State of Washington

65th Legislature

2017 Regular Session

By Senators Becker, Frockt, Baumgartner, Fain, Rolfes, Rivers, Billig, Zeiger, Darneille, Keiser, Hunt, and Saldaña

Read first time 01/26/17. Referred to Committee on Agriculture, Water, Trade & Economic Development.

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, 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 production
16 that portrays a significant historical event in Washington.

17 (2) The credit in subsection (1) of this section is available for
18 calendar year 2017, calendar year 2018, and calendar year 2019.
19 However, the aggregate amount of the credit for all three calendar
20 years may not exceed three million dollars.

21 (3) The credit under this section is not subject to the annual
22 per person limits in RCW 82.04.4489(3).

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

25 (5) If a major motion picture that portrays a significant event
26 in Washington has not begun filming in Washington by July 1, 2019,
27 any credits previously awarded under this section and used to reduce
28 any tax under this chapter must be repaid to the department by
29 December 31, 2019. If a credit was awarded under this section, but
30 was not used, the credit is void.

31 (6) For the purposes of this section, a "major motion picture
32 that portrays a significant event in Washington" means a motion
33 picture being filmed for theatrical release with a total budget of at
34 least twenty million dollars that portrays an event that occurred, at
35 least in part in Washington state, during the twentieth century.

36 (7) This section expires January 1, 2020.

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

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

5 (2) The person must make the contribution before claiming a
6 credit authorized under this section. Credits earned under this
7 section may be claimed against taxes due for the calendar year in
8 which the contribution is made. The amount of credit claimed for a
9 reporting period may not exceed the tax otherwise due under this
10 chapter for that reporting period. No person may claim more than one
11 million dollars of credit in any calendar year, including credit
12 carried over from a previous calendar year. No refunds may be granted
13 for any unused credits.

14 (3) The maximum credit that may be earned for each calendar year
15 under this section for a person is limited to the lesser of one
16 million dollars or an amount equal to one hundred percent of the
17 contributions made by the person to a program during the calendar
18 year.

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

22 (5) Any amount of tax credit otherwise allowable under this
23 section not claimed by the person in any calendar year may be carried
24 over and claimed against the person's tax liability for the next
25 succeeding calendar year. Any credit remaining unused in the next
26 succeeding calendar year may be carried forward and claimed against
27 the person's tax liability for the second succeeding calendar year;
28 and any credit not used in that second succeeding calendar year may
29 be carried over and claimed against the person's tax liability for
30 the third succeeding calendar year, but may not be carried over for
31 any calendar year thereafter.

32 (6) Credits are available on a first in-time basis. The
33 department must disallow any credits, or portion thereof, that would
34 cause the total amount of credits claimed under this section during
35 any calendar year to exceed three million five hundred thousand
36 dollars. If this limitation is reached, the department must notify
37 all Washington motion picture competitiveness programs that the
38 annual statewide limit has been met. In addition, the department must
39 provide written notice to any person who has claimed tax credits in
40 excess of the limitation in this subsection. The notice must indicate

1 the amount of tax due and provide that the tax be paid within thirty
2 days from the date of the notice. The department may not assess
3 penalties and interest as provided in chapter 82.32 RCW on the amount
4 due in the initial notice if the amount due is paid by the due date
5 specified in the notice, or any extension thereof.

6 (7) To claim a credit under this section, a person must
7 electronically file with the department all returns, forms, and any
8 other information required by the department, in an electronic format
9 as provided or approved by the department. Any return, form, or
10 information required to be filed in an electronic format under this
11 section is not filed until received by the department in an
12 electronic format. As used in this subsection, "returns" has the same
13 meaning as "return" in RCW 82.32.050.

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

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

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

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

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

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

30 The ((following)) definitions in this section apply ((to))
31 throughout this chapter((7)) unless the context clearly requires
32 otherwise.

33 (1) "Approved motion picture competitiveness program" means a
34 nonprofit organization under the internal revenue code, section
35 501(c)(6), with the sole purpose of revitalizing the state's
36 economic, cultural, and educational standing in the national and
37 international market of motion picture production and associated
38 creative industries and assisting and providing services for
39 attracting the film industry and associated creative industries, by

1 recommending and awarding financial assistance for costs associated
2 with motion pictures in the state of Washington.

3 (2) "Contribution" means cash contributions.

4 (3) "Costs" means actual expenses of production and
5 postproduction expended in Washington state for the production of
6 motion pictures, including but not limited to payments made for
7 salaries, wages, and health insurance and retirement benefits, the
8 rental costs of machinery and equipment and the purchase of services,
9 food, property, lodging, and permits for work conducted in Washington
10 state.

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

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

14 (6) "Motion picture" means a recorded audiovisual production
15 intended for distribution to the public for exhibition in public
16 and/or private settings by means of any and all delivery systems
17 and/or delivery platforms now or hereafter known, including without
18 limitation, screenings in motion picture theaters, broadcasts and
19 cablecast transmissions for viewing on televisions, computer screens,
20 and other audiovisual receivers, viewings on screens by means of
21 digital video disc (DVD) players, video on demand (VOD) services, and
22 digital video recording (DVR) services, direct internet transmission,
23 and viewing on digital computer-based systems which respond to the
24 users' actions (interactive media).

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

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