

SENATE BILL REPORT

SB 5760

As Reported by Senate Committee On:
Business, Financial Services & Trade, January 25, 2022
Ways & Means, February 24, 2022

Title: An act relating to updating and expanding the motion picture competitiveness program.

Brief Description: Updating and expanding the motion picture competitiveness program.

Sponsors: Senators Wellman, Frockt, Conway, Keiser, Liias, Lovelett, Nguyen, Rolfes, Short and Wilson, C..

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/18/22, 1/25/22 [DPS-WM].
Ways & Means: 2/22/22, 2/24/22 [DPS (BFST), DNP, w/oRec].

Brief Summary of First Substitute Bill

- Increases the amount of Business and Occupation (B&O) tax credits that may be taken per year, per business entity, from \$750,000 to \$1 million and total amount of B&O tax credits taken annually from \$3.5 million to \$20 million.
- Establishes a goal and an enhancement award for productions in rural communities, and makes developing resources for filming in rural communities an allowable use of funds for the Washington Motion Picture Competitiveness Program (Program).
- Modifies the membership of the board of directors of the Program .
- Exempts certain entities contributing to the Program and receiving a tax credit from certain annual reporting requirements.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5760 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Lovick and Wilson, L.

Staff: Kellee Gunn (786-7429)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5760 as recommended by Committee on Business, Financial Services & Trade be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Mullet, Muzzall, Pedersen, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: Do not pass.

Signed by Senators Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Gildon.

Staff: Alia Kennedy (786-7405)

Background: Motion Picture Competitiveness Program and Washington Filmworks. The motion picture competitiveness program (Program) was created by the legislature in 2002 to help maintain Washington as a competitive location to film motion pictures, television, and commercials. In return for contributing to the Program's incentive fund, a business may receive a credit against their Business and Occupations (B&O) tax liability up to \$750,000 per year. The total amount that may be credited any calendar year is \$3.5 million.

The Department of Commerce (Commerce) is responsible for adopting criteria for the Program, along with other rules. Money for the Program may only be used for:

- benefits for employees, and other costs associated with film production; and
- operating and administrative costs.

A project may qualify for 30-35 percent of their production's total state investment depending on the type of production. To receive up to 30 percent of the production's investment, a single motion picture must invest at least \$500,000, and a television commercial associated with a national or regional campaign must invest at least \$150,000. An episodic series with less than six episodes may qualify for a maximum of 30 percent of their total state investment. And an episodic series that invests at least \$300,000 per episode, with a minimum of six episodes, may qualify up to 35 percent of their total

investment.

The Program is overseen by a nonprofit corporation, Washington Filmworks (Filmworks), with a board of nine directors, appointed by the governor. Except for a chairperson, chosen at large, the following must be represented on the board:

- one member of the Washington motion picture production industry;
- one member of the Washington motion picture postproduction industry;
- one member of the Washington interactive media or emerging motion picture industry;
- one member representing Washington visitors and convention bureaus;
- one member representing the Washington tourism industry;
- one member representing the Washington restaurant, hotel, and airline industry; and
- two members representing labor unions affiliated with Washington motion picture production.

Reporting Requirements. Those who contribute to the Program are subject to the annual reporting requirement for tax preferences, collected by the Department of Revenue, and an annual survey by Filmworks, and reported by Commerce. Both reports require employment and wage data, among other information.

Summary of Bill (First Substitute): The total amount of B&O tax credits taken annually is increased to \$20 million, and the amount of credit that may be taken per year per entity is increased to \$1 million. Additionally, a production may qualify for a 10 percent enhancement award on the production's state investment if it is located or filmed in a rural community.

Money received by the program may be used for developing resources to facilitate filming in rural communities.

A goal is established for at least 20 percent of the funding assistance provided by the program to be located or filmed in rural communities. The board, through Commerce, must report on their progress towards the goal by December 31st, annually. In addition to reporting on their progress towards the goal, the report must include certain information on funding assistance awards. Rural communities are defined as: a rural county, an area that is not delineated as an urbanized area by the United States Census Bureau, or an area within a non-rural county that would otherwise be considered rural by Commerce through rule.

Of the \$20 million, \$3 million must go to small productions, defined as a production with a total budget of less than \$3 million. After approval, the program must hold on to a small production's approved funding assistance while financing is secured. Funding assistance shall be made available to other eligible applicants with funding assistance approval if the small production cannot secure the remainder of the funding within nine months.

Filmworks' board membership is modified. In addition to two labor representatives, and the chairperson, the board must include :

- two members representing the Washington motion picture industry, with one demonstrating expertise in motion picture financing;
- one member from the Washington interactive entertainment industry, not involved in any aspect of the industry associated with gambling;
- one member representing technologies impacting the Washington emerging motion picture industry;
- three members representing industries and businesses impacted by motion picture production, two of whom must each represent a side of the Cascade Mountain range;
- a cochair of the board's equity committee, as recommended to the board by the Governor; and
- a cochair of the board's advisory committee, as recommended by the Governor.

Members of the board must comply with the Ethics in Public Service Act.

Entities contributing to Filmworks and receiving a tax credit, and not otherwise receiving funding assistance under the program, are exempt from DOR's and Commerce's annual reporting requirements.

EFFECT OF CHANGES MADE BY BUSINESS, FINANCIAL SERVICES & TRADE COMMITTEE (First Substitute):

- Establishes a goal of at least 20 percent of the financial assistance provided by the motion picture competitiveness program be located or filmed in rural communities.
- Establishes a 10 percent enhancement award on a rural community production's state investment.
- Allows money received by the program to be used for developing resources to facilitate filming in rural communities.
- Defines rural communities as:
 - as a rural county;
 - an area that is not delineated as an urbanized area by the United States Census Bureau; or
 - an area within a nonrural county that would otherwise be considered rural by Commerce through rule.
- Requires the board, through Commerce, to submit an annual report by December 31 with certain information regarding funding assistance award and the progress towards the goal for 20 percent of financial assistance provided to productions located or filmed in rural counties.
- Requires \$3 million of the total funding assistance awarded by the motion picture competitiveness program be for small productions, defined as a production with a total budget of less than \$3 million. After approval, the program must hold on to a small production's approved funding assistance while financing is secured. Funding assistance shall be made available to other eligible applicants with funding assistance approval if the small production cannot secure the remainder of the funding within nine months.

- Requires members of the board to comply with the Ethics in Public Service Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Business, Financial Services & Trade): *The committee recommended a different version of the bill than what was heard.*
PRO: This is about reestablishing Washington as a player in the motion picture industry. Big projects have been driven to Canada and Atlanta, Georgia. Filmworks has brought projects in. The board changes reflect changes in the industry and includes the interactive industry, emerging industries, and representation from both sides of the Cascades. Both this bill and 5640 would strengthen the film industry in this state. The Twilight films were filmed in Oregon and Louisiana and Boys in the Boat, sadly, is being filmed in England and not here. Two factors have been significant in not attracting productions: lack of studios with sound stages and an inadequate film incentive. Last year, Harbor Island Studios in King County was created which will bring film production here. To be competitive, we need to increase the incentive.

In Spokane, we have investors and soundstages ready, we just need a program to bring the productions here and an increased incentive will do that. Freelance crews do not always work on independent contracts. The classifications of freelance crew is an issue that we are looking to address. This is the only program in the country that requires funding for crew benefits. An increase of this level is needed to be competitive. There is a lack of diversity in this industry. Even though it is getting more diverse, there is much more work to do. Adding the other equity co-chair to the board will ensure the funding is distributed in an equitable way. It is time to bring film back to Washington. It was challenging to find a job in this industry. The Filmworks' mentee program provided relevant tools to BIPOC filmworkers on overcoming barriers. It helped pave the way to my first job on an episode's production. While attending EWU, I accepted an internship with Z-nation. Since then, I have worked on six projects. We need to build the next generation of film makers. People who want careers in this industry leave Washington. The program is economic development and provides funding to motion picture production that in turn supports many other industries such as the hospitality and transportation.

We are the United Rentals of the film industry. Our company has sites in Portland and Tukwila. Since Oregon's film incentive was increased, our Portland based site has expanded to support smaller corporate-based projects to support large shows that film for many months and hire a hundred or more people. We can now accommodate three shows, where before we only needed to accommodate one. Washington Filmworks is crucial in

helping entities like ours to get these projects going.

Our production company has a long history with producing in Washington State. This incentive is crucial for producers in deciding where to film. It has become the fabric to how these projects are financed. There are a lot of advantages to filming in Washington. Even though British Columbia (BC) has a larger capacity, Filmworks' program is straightforward, and this state has a great pool of talent. Crew is very expensive up in BC.

As executive director of Washington Filmworks, increasing it to \$20 million a year would show our state's commitment to motion picture production. We would work with local gaming studios, and emerging industries. We would work to expand filming into rural areas. And we would work with students that are looking at a career in film. This would support a new film ecosystem that would provide year-long work. This program is mirrored after the Main Street program. The increase to \$1 million reflects what was in the program before. Approved productions create jobs. The rigorous review process that all films go through ensures job creation. The board is appointed by the Governor and it is sometimes a challenge to find board members. The changes to the board are more reflective of the industry right now, including underrepresented folks. Staff must clearly vet these projects and board members with a conflict of interest cannot vote on them.

It used to be where you could drive for the film industry for a living. We have a loyal group of Teamster members in this industry. Unfortunately, people can no longer make a living in film, and less members are here to do the work. This bill would bring work to Washington and to our members.

Persons Testifying (Business, Financial Services & Trade): PRO: Senator Lisa Wellman, Prime Sponsor; Jeanne Kohl-Welles, King County Council; Jason Farley, Inland Northwest Film Studios; Derek Nunn, MagnumOpus Productions; Melinda Raebyne, Melinda Raebyne Films; Amy Lillard, Washington Filmworks; Julie Daman, Washington Filmworks; Don Jensen, Wash; Melissa Purcell, I.A.T.S.E. Local #488; Myron Partman; Frances Grace Mortel; Devante Smith; Nike Imoru; Doug Boss; Sherrye Wyatt, Film Liaison for Whidbey and Camano Islands; Andy Spaulding, Echo Lake Entertainment; Patty Warren, Teamsters Local 174.

Persons Signed In To Testify But Not Testifying (Business, Financial Services & Trade): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: Strengthening the film industry in Washington has a significant statewide impact by increasing jobs and revenue. Washington's motion picture competitiveness program is the only program in the country that requires recipients to provide benefits to employees who work on these accepted projects. The program has not had an increase in funding since it began. The program does not have the funds to accept all applicants. The motion picture competitiveness program is a priority of the King County Council. The program is essential

to making Washington a competitive location for the film industry. Washington will not be a competitive location for the film industry with an inadequate film incentive program. The tax incentive is based off of the Main Street program and encourages businesses to contribute. The program has a rigorous review process that ensures grants are directly tied to investments within the state. Every district in the state benefits from a strong film industry.

Persons Testifying (Ways & Means): PRO: Senator Lisa Wellman, Prime Sponsor; Jeanne Kohl-Welles, King County Council; Amy Lillard, Washington Filmworks; Julie Daman, Washington Filmworks.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.