
SUBSTITUTE HOUSE BILL 2818

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Finance (originally sponsored by Representatives McIntire, Kenney, McDermott, Hunter, Ormsby, Linville, Wood, Fromhold, Morrell, Conway, Condotta and Springer)

READ FIRST TIME 02/09/06.

1 AN ACT Relating to the state of Washington's economic, cultural,
2 and educational standing in the motion picture industry; adding a new
3 section to chapter 82.04 RCW; and adding a new chapter to Title 43 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the motion
6 picture industry in Washington as a valuable commodity contributing
7 greatly to the economic vitality of the state and the cultural
8 integrity of our communities. The legislature further recognizes the
9 production of in-state motion pictures, television programs, and
10 television commercials creates a marked increase in tourism, family
11 wage jobs, and the sale of local goods and services generating revenue
12 for the state. Furthermore, with captive national and international
13 audiences, the world is introduced to the state's pristine scenic
14 venues and reminded that the Pacific Northwest is a great place to live
15 and raise a family. The legislature also recognizes the inherent
16 educational value of promoting arts and culture as well as the benefits
17 of training young motion picture professionals who will build a
18 fruitful industry for years to come.

1 The legislature finds in recent years that the state has realized
2 a drastic decline in motion picture production that precludes economic
3 expansion and threatens the state's reputation as a production
4 destination. With the emergence of tax incentives in thirty states
5 nationwide, in-state producers are taking their projects to more
6 competitive economic climates, such as Oregon and Vancouver, British
7 Columbia, where compelling tax incentive packages and subsidies are
8 already in effect.

9 The legislature also finds that in recent years increasingly
10 workers in Washington state are without health insurance coverage and
11 retirement income protections, causing hardships on workers and their
12 families and higher costs to the state.

13 Therefore, it is the intent of the legislature to recognize both
14 national and international competition in the motion picture production
15 marketplace. The legislature is committed to leveling the competitive
16 playing field and interested in a partnership with the private sector
17 to regain Washington's place as a premier destination to make motion
18 pictures, television, and television commercials. While at the same
19 time the legislature is committed to ensuring that workers in the
20 motion picture and television industry are covered under health
21 insurance and retirement income plans.

22 NEW SECTION. **Sec. 2.** The following definitions apply to this
23 chapter, unless the context clearly requires otherwise.

24 (1) "Approved motion picture competitiveness program" means a
25 nonprofit organization under the internal revenue code, section
26 501(c)(6), with the sole purpose of revitalizing the state's economic,
27 cultural, and educational standing in the national and international
28 market of motion picture production by recommending and awarding
29 financial assistance for costs associated with motion pictures in the
30 state of Washington.

31 (2) "Contribution" means cash contributions.

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

1 (4) "Department" means the department of community, trade, and
2 economic development.

3 (5) "Motion picture" means a recorded audio-visual production
4 intended for distribution to theaters, DVD, video, or the internet, or
5 television, or one or more episodes of a single television series, or
6 a commercial. "Motion picture" does not mean production of a
7 television commercial of an amount less than two hundred fifty thousand
8 dollars in actual total investment or one or more segments of a
9 newscast or sporting event.

10 (6) "Funding assistance" means cash expenditures from an approved
11 motion picture competitiveness program.

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

13 NEW SECTION. **Sec. 3.** (1) The department shall adopt criteria for
14 an approved motion picture competitiveness program with the sole
15 purpose of revitalizing the state's economic, cultural, and educational
16 standing in the national and international market of motion picture
17 production. Rules adopted by the department shall allow the program,
18 within the established criteria, to provide funding assistance only
19 when it captures economic opportunities for Washington's communities
20 and businesses and shall only be provided under a contractual
21 arrangement with a private entity. In establishing the criteria, the
22 department shall consider:

23 (a) The additional income and tax revenue to be retained in the
24 state for general purposes;

25 (b) The creation and retention of family wage jobs which provide
26 health insurance and payments into a retirement plan;

27 (c) The impact of motion picture projects to maximize in-state
28 labor and the use of in-state film production and film postproduction
29 companies;

30 (d) The impact upon the local economies and the state economy as a
31 whole, including multiplier effects;

32 (e) The intangible impact on the state and local communities that
33 comes with motion picture projects;

34 (f) The regional, national, and international competitiveness of
35 the motion picture filming industry;

36 (g) The revitalization of the state as a premier venue for motion
37 picture production and national television commercial campaigns;

1 (h) Partnerships with the private sector to bolster film production
2 in the state and serve as an educational and cultural purpose for its
3 citizens;

4 (i) The vitality of the state's motion picture industry as a
5 necessary and critical factor in promoting the state as a premier
6 tourist and cultural destination;

7 (j) Other factors the department may deem appropriate for the
8 implementation of this chapter.

9 (2) The board of directors created under section 4 of this act
10 shall create and administer an account for carrying out the purposes of
11 subsection (3) of this section.

12 (3) Money received by an approved motion picture competitiveness
13 program shall be used only for: (a) Health insurance and payments into
14 a retirement plan, and other costs associated with film production; (b)
15 a tax credit marketer to market the tax credits authorized under
16 section 6 of this act; and (c) staff and related expenses to maintain
17 the program's proper administration and operation.

18 (4) Maximum funding assistance from an approved motion picture
19 competitiveness program is limited to:

20 (a) Twenty percent of a total actual investment in the state of at
21 least five hundred thousand dollars, for a single feature film produced
22 in Washington state;

23 (b) Twenty percent of a total actual investment in the state of at
24 least three hundred thousand dollars per television episode produced in
25 Washington state; or

26 (c) Twenty percent of a total actual investment in the state of at
27 least two hundred fifty thousand dollars for an infomercial or
28 television commercial associated with a national or regional
29 advertisement campaign produced in Washington state.

30 (5) No single motion picture production or episodic television
31 project may be awarded an amount greater than one million dollars from
32 an approved motion picture competitiveness program.

33 NEW SECTION. **Sec. 4.** (1) A Washington motion picture
34 competitiveness program under this chapter shall be administered by a
35 board of directors appointed by the governor.

36 (2) The board shall evaluate and award financial assistance to

1 motion picture projects under rules set forth under section 3 of this
2 act.

3 (3) The board shall consist of the following members:

4 (a) One member representing the Washington motion picture
5 production industry;

6 (b) One member representing the Washington motion picture
7 postproduction industry;

8 (c) Two members representing labor unions affiliated with
9 Washington motion picture production;

10 (d) One member representing the Washington visitors and convention
11 bureaus;

12 (e) One member representing the Washington tourism industry;

13 (f) One member representing the Washington restaurant, hotel, and
14 airline industry; and

15 (g) A chairperson, chosen at large, shall serve at the pleasure of
16 the governor.

17 (4) The term of the board members, other than the chair, is four
18 years. A board member appointed by the governor may be removed by the
19 governor for cause under RCW 43.06.070 and 43.06.080.

20 (5) Five members of the board constitute a quorum.

21 (6) The board shall elect a treasurer and secretary annually, and
22 other officers as the board members determine necessary, and may adopt
23 bylaws or rules for its own government.

24 (7) The board shall make any information available at the request
25 of the department to administer this chapter.

26 (8) Contributions received by a board shall be deposited into the
27 account described in section 3(2) of this act.

28 NEW SECTION. **Sec. 5.** Notwithstanding amounts previously committed
29 by a Washington motion picture competitiveness program board of
30 directors for financial assistance, upon a determination by the
31 department by July 1, 2009, any approved motion picture competitiveness
32 program with funds greater than one million five hundred thousand
33 dollars to be used for the purposes under section 3(3) of this act,
34 shall transfer amounts in excess of one million five hundred thousand
35 dollars to the state treasurer for deposit into the state general fund.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
2 to read as follows:

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

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

15 (3) The maximum credit that may be earned for each fiscal year
16 under this section for a person is limited to the lesser of:

17 (a) An amount equal to ninety percent of the contributions made by
18 the person to a program during the fiscal year; or

19 (b) One million dollars.

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

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

33 (6) Credits are available on a first in-time basis. The department
34 shall disallow any credits, or portion thereof, that would cause the
35 total amount of credits claimed under this section during any fiscal
36 year to exceed five million dollars. If this limitation is reached,
37 the department shall notify all Washington motion picture
38 competitiveness programs that the annual statewide limit has been met.

1 In addition, the department shall provide written notice to any person
2 who has claimed tax credits in excess of the five million dollar
3 limitation in this subsection. The notice shall indicate the amount of
4 tax due and shall provide that the tax be paid within thirty days from
5 the date of such notice. The department shall not assess penalties and
6 interest as provided in chapter 82.32 RCW on the amount due in the
7 initial notice if the amount due is paid by the due date specified in
8 the notice, or any extension thereof.

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

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

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

24 (10) The department shall not allow any credit under this section
25 before July 1, 2006.

26 (11) For the purposes of this section, the following definitions
27 apply:

28 (a) "Fiscal year" means the twelve-month period beginning July 1
29 and ending June 30.

30 (b) "Washington motion picture competitiveness program" or
31 "program" means an organization established pursuant to chapter 43.--
32 RCW (sections 1 through 5 of this act).

33 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
34 a new chapter in Title 43 RCW.

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