

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6423

60th Legislature
2008 Regular Session

Passed by the Senate February 29, 2008
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 7, 2008
YEAS 93 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6423** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6423

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Brown, Hewitt, Kohl-Welles, and McAuliffe)

READ FIRST TIME 02/28/08.

1 AN ACT Relating to strengthening the tax credit and modifying the
2 governing board of a Washington motion picture competitiveness program;
3 and amending RCW 43.365.020, 43.365.030, and 82.04.4489.

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

5 **Sec. 1.** RCW 43.365.020 and 2006 c 247 s 3 are each amended to read
6 as follows:

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

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

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

3 (c) The impact of motion picture projects to maximize in-state
4 labor and the use of in-state film production and film postproduction
5 companies;

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

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

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

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

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

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

20 (j) Giving preference to additional seasons of television series
21 that have previously qualified;

22 (k) Other factors the department may deem appropriate for the
23 implementation of this chapter.

24 (2) The board of directors created under RCW 43.365.030 shall
25 create and administer an account for carrying out the purposes of
26 subsection (3) of this section.

27 (3) Money received by an approved motion picture competitiveness
28 program shall be used only for: (a) Health insurance and payments into
29 a retirement plan, and other costs associated with film production; (b)
30 a tax credit marketer to market the tax credits authorized under RCW
31 82.04.4489; and (c) staff and related expenses to maintain the
32 program's proper administration and operation.

33 (4) Maximum funding assistance from an approved motion picture
34 competitiveness program is limited to an amount up to twenty percent of
35 the total actual investment in the state of at least:

36 (a) (~~Twenty percent of a total actual investment in the state of~~
37 ~~at least~~) Five hundred thousand dollars(~~(7)~~) for a single feature film
38 produced in Washington state;

1 (b) (~~Twenty percent of a total actual investment in the state of~~
2 ~~at least~~) Three hundred thousand dollars per television episode
3 produced in Washington state; or

4 (c) (~~Twenty percent of a total actual investment in the state of~~
5 ~~at least two~~) One hundred fifty thousand dollars for an infomercial or
6 television commercial associated with a national or regional
7 advertisement campaign produced in Washington state.

8 (5) (~~No single motion picture production or episodic television~~
9 ~~project may be awarded an amount greater than one million dollars from~~
10 ~~an approved motion picture competitiveness program.~~

11 ~~(6)~~) Funding assistance approval must be determined by the
12 approved motion picture competitiveness program within a maximum of
13 thirty calendar days from when the application is received, if the
14 application is submitted after August 15, 2006.

15 **Sec. 2.** RCW 43.365.030 and 2006 c 247 s 4 are each amended to read
16 as follows:

17 (1) A Washington motion picture competitiveness program under this
18 chapter shall be administered by a board of directors appointed by the
19 governor, and the appointments shall be made within sixty days
20 following enactment. The department, after consulting with the board,
21 shall adopt rules for the standards that shall be used to evaluate the
22 applications for funding assistance prior to June 30, 2006.

23 (2) The board shall evaluate and award financial assistance to
24 motion picture projects under rules set forth under RCW 43.365.020.

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

26 (a) One member representing the Washington motion picture
27 production industry;

28 (b) One member representing the Washington motion picture
29 postproduction industry;

30 (c) Two members representing labor unions affiliated with
31 Washington motion picture production;

32 (d) One member representing the Washington visitors and convention
33 bureaus;

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

35 (f) One member representing the Washington restaurant, hotel, and
36 airline industry; and

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

3 (4) The term of the board members, other than the chair, is four
4 years, except as provided in subsection (5) of this section.

5 (5) The governor shall appoint board members in 2010 to two-year or
6 four-year staggered terms. Once the initial two-year or four-year
7 terms expire, all subsequent terms shall be for four years. The terms
8 of the initial board members shall be as follows:

9 (a) The board positions in subsection (3)(b), (d), and (f) of this
10 section, and one position from subsection (3)(c) of this section shall
11 be appointed to two-year terms; and

12 (b) The remaining board positions in subsection (3) of this section
13 shall be appointed to four-year terms.

14 (6) A board member appointed by the governor may be removed by the
15 governor for cause under RCW 43.06.070 and 43.06.080.

16 ~~((+5))~~ (7) Five members of the board constitute a quorum.

17 ~~((+6))~~ (8) The board shall elect a treasurer and secretary
18 annually, and other officers as the board members determine necessary,
19 and may adopt bylaws or rules for its own government.

20 ~~((+7))~~ (9) The board shall make any information available at the
21 request of the department to administer this chapter.

22 ~~((+8))~~ (10) Contributions received by a board shall be deposited
23 into the account described in RCW 43.365.020(2).

24 **Sec. 3.** RCW 82.04.4489 and 2006 c 247 s 5 are each amended to read
25 as follows:

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

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

1 (3) The maximum credit that may be earned for each calendar year
2 under this section for a person is limited to the lesser of(~~(+~~
3 ~~(a)~~) one million dollars(~~(+)~~) or
4 (~~(b)(i) Through calendar year 2008,~~) an amount equal to one
5 hundred percent of the contributions made by the person to a program
6 during the calendar year(~~(+ and~~
7 ~~(ii) For calendar years after 2008, an amount equal to ninety~~
8 ~~percent of the contributions made by the person to a program during the~~
9 ~~calendar year)~~).

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

13 (5) Any amount of tax credit otherwise allowable under this section
14 not claimed by the person in any calendar year may be carried over and
15 claimed against the person's tax liability for the next succeeding
16 calendar year. Any credit remaining unused in the next succeeding
17 calendar year may be carried forward and claimed against the person's
18 tax liability for the second succeeding calendar year; and any credit
19 not used in that second succeeding calendar year may be carried over
20 and claimed against the person's tax liability for the third succeeding
21 calendar year, but may not be carried over for any calendar year
22 thereafter.

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

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

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

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

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

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

21 (12) No credit may be earned for contributions made on or after
22 July 1, 2011.

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