

HOUSE BILL REPORT

ESHB 1914

As Passed House:

March 4, 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: House Committee on Community & Economic Development (originally sponsored by Representatives Riccelli, Orcutt, Berry, Leavitt, McEntire, Ryu, Santos, Walen, Wicks, Ortiz-Self, Stonier, Robertson, Peterson, Rule, Vick, Goodman, Dolan, Orwall, Eslick, Barkis, Graham, Berg, Dent, Bateman and Macri).

Brief History:

Committee Activity:

Community & Economic Development: 1/25/22, 1/28/22 [DPS];

Finance: 2/3/22, 2/17/22 [DPS(CED)].

Floor Activity:

Passed House: 3/4/22, 93-3.

Brief Summary of Engrossed Substitute Bill

- Modifies and expands the membership of the board of directors of the Motion Picture Competitiveness Program (Program) and requires the board to comply with rules related to conflicts of interest.
- Adds supporting the growth and development of the state film industry and developing resources to facilitate filming in rural communities as allowable uses of Program funding assistance.
- Requires that up to a 10 percent enhancement be awarded on a motion picture production's state investment for motion pictures that are located or filmed in a rural community or that tell stories of marginalized communities.
- Requires that Program funding assistance include up to \$3 million for

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small motion picture productions that are produced in Washington and are creatively driven by Washington residents.

- Requires the Department of Commerce to report to the Legislature annually on specified information about the Program.
- Increases the total statewide Business and Occupation (B&O) tax credit limit for Program contributions from \$3.5 million to \$20 million per calendar year.
- Increases the B&O tax credit limit one person may claim for Program contributions from \$750,000 to \$1 million per calendar year.
- Allows a person to claim credits against business and occupation tax liability, in exchange for contributing to the Program, until July 1, 2030, instead of 2027.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Ryu, Chair; Paul, Vice Chair; Boehnke, Ranking Minority Member; Chase, Assistant Ranking Minority Member; Corry, Donaghy, Frame, Jacobsen, Johnson, J., Kraft, Rule, Sutherland and Taylor.

Staff: Cassie Jones (786-7303).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Community & Economic Development be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick and Wylie.

Minority Report: Without recommendation. Signed by 1 member: Representative Young.

Staff: Kyle Raymond (786-7190).

Background:

The Motion Picture Competitiveness Program (Program) was created by the Legislature in 2006 for the stated purpose of leveling the competitive playing field through a partnership with the private sector to regain Washington's place as a premier destination to make

motion pictures, television, and television commercials. The Program must be overseen by a nonprofit organization with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production and associated creative industries.

Washington Filmworks (Filmworks) is the private nonprofit that oversees the Program and manages its incentive program. Filmworks must be administered by a board of directors (Board) appointed by the Governor. 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;
- two members representing labor unions affiliated with Washington motion picture production; and
- a chairperson, chosen at large.

The Board must evaluate and award financial assistance to motion picture projects under criteria adopted by the Department of Commerce (Commerce). Money received by the Program may only be used for:

- benefits for employees and other costs associated with film production; and
- staff and related expenses to maintain the Program's proper administration and operation.

In return for contributing to the Program's incentive fund, a person may receive a credit against 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. No credit may be earned for contributions made on or after July 1, 2027.

Each motion picture production receiving funding assistance under the Program must report information to Commerce by filing a complete annual survey. The survey must include information on taxes paid, amount of funding assistance received, and employment and wage data. A person claiming a tax credit for contributions made to the Program must file an annual report with the Department of Revenue (DOR). The report must include employment and wage data, among other information.

Summary of Engrossed Substitute Bill:

The stated Purpose of the program is modified to include promoting an equitable film industry. The Department of Commerce must consider giving preference to motion picture productions that tell stories of marginalized communities when establishing criteria for the Program.

Tax-Related Provisions.

The total statewide B&O tax credit limit for Program contributions is increased to \$20 million per calendar year. The B&O tax credit limit one person may claim for Program contributions is increased to \$1 million per calendar year.

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

A tax preference performance statement that identifies the Legislature's public policy purpose and intent for the Program tax credit is included. The Joint Legislative Audit and Review Committee must review and make a recommendation to the Legislature regarding the effectiveness of the Program by December 1, 2026.

A person may claim credits against business and occupation tax liability, in exchange for contributing to the program, until July 1, 2030, instead of 2027.

Program Funding Assistance.

The following are included as additional authorized uses of Program funding assistance

- supporting the growth and development of the state film industry through career-connected learning, workforce development, and business development with a focus on better supporting people from marginalized and rural communities; and
- developing resources to facilitate filming in rural communities including, but not limited to, economic development grants for filming, training for film liaisons, information about film permitting processes, and grants to support the expansion of location database collateral.

Up to a 10 percent enhancement award on a motion picture production's state investment must be given for motion pictures: (1) located or filmed in a rural community; or (2) that tell stories of marginalized communities.

Funding assistance must include up to \$3 million for small motion picture productions produced in Washington that are creatively driven by Washington residents. To qualify, the small motion picture production must have at least two Washington residents in any combination of the following positions: writer, director, producer, or lead actor. An entity seeking funding assistance for a small motion picture production must demonstrate that the amount of the total actual investment for the production is less than \$1 million. The Program, after determining a conditional approval of the production, must hold the production's funding assistance in reserve while the entity seeking funding assistance for the production secures financing for the remainder of the budget. Once the entity seeking funding assistance for the production demonstrates to the Program that it has secured the necessary financing, the Program must certify the small motion picture production as approved. If the entity seeking funding assistance cannot demonstrate within six months

from the date of conditional approval that it has secured the total budget, the Program must make the funding assistance available to other eligible applicants with funding assistance approval.

The Program must allocate funds for training and job placement for marginalized communities as follows:

- for fiscal years 2023 and 2024, a minimum of \$500,000 for each fiscal year; and
- for each fiscal year on or after July 1, 2024, a minimum of \$750,000.

Filmworks' Board of Directors.

Filmworks' Board membership is modified. The number of Board members is increased from nine to 13 members. 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 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;
- two co-chairs of the Board's equity committee, as recommended to the Board by the Governor; and
- two co-chairs of the Board's advisory committee, as recommended by the Governor.

Board members must comply with all requirements of a 501(c)(6) organization, including the prohibition on using information obtained as a board member for personal gain. Board members must act in the best interest of the approved motion picture competitiveness program. Each board member must complete an annual conflicts of interest form to disclose all conflicts and potential conflicts of interest with board actions. If a board member has a conflict of interest with respect to an application for funding assistance, the board member must disclose the board member's conflict and not be present for a discussion or vote on the application.

The board's goal must be to commit at least 20 percent of funding assistance to motion picture productions located or filmed in rural communities and 20 percent of funding assistance to motion picture productions that tell stories of marginalized communities.

Report.

By December 31, 2022, and annually thereafter, Commerce must report to the Legislature on the Program. The report must include an annual list of recipients awarded financial assistance from the prior year with total estimated production costs, locations of each production, and the board's progress towards the goal of at least 20 percent of its funding assistance provided to motion picture productions located or filmed in rural communities and 20 percent of its funding assistance provided to motion picture productions that tell stories of marginalized communities. The report must also include information on

workforce development, career connected learning, and business development activities, including whether they have been scaled up in size from the previous year and how they are meeting the goal of supporting people from marginalized communities.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 5, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Community & Economic Development):

(In support) Oregon and British Columbia have been successful in fostering the film economy. Our state is a beautiful place with talented professionals. COVID-19 has hit the creative industry very hard. This bill will make Washington more competitive for films and episodic projects. The bill provides more money for the competitiveness program and gives Filmworks the ability to expand equity and inclusion in the organization. The Program has a great return on investment. Increasing the competitiveness fund to \$20 million would enable Filmworks to support all stages of production. Filmworks would also collaborate with the gaming industry to develop their motion picture content. Effort would also be put toward developing film opportunities for rural Washington. The media mentorship program would also be expanded to focus on providing training for the workforce of the future. The program has never seen a funding increase and Washington can no longer compete with other states and British Columbia. The bill would dramatically improve the film ecosystem.

This bill also expands the Program to allow Filmworks to support the growth and development of the industry through career-connected learning with a focus on supporting people from marginalized and rural communities. The Program uses funds to incentivize motion picture production. The bill would increase the maximum allowable credit for a person to \$1 million. The bill also realigns Board positions to reflect updates to the industry and the Joint Legislative and Audit Review Committee reporting requirements. The program has a rigorous review process. The Program also requires health and welfare benefits to be provided to workers.

There has been a lack of diversity in the film industry in Washington, but things are improving including through Filmwork's mentor program. The bill requires that a co-chair of the equity committee will have a seat on the Board. This will help to ensure that incentives are distributed equitably. Diversity will make the industry profitable for everyone. There are not a lot of film employment opportunities in some areas of the state. Filmworks' mentorship program gives opportunities to BIPOC for mentorship, training, and experience working on approved film projects. This bill will help provide greater access to opportunities to BIPOC and marginalized film workers. This bill will help to increase employment opportunities locally so film workers do not have to travel to other states and

counties to find employment. The best and the brightest can work in the industry in their home communities.

The industry continues to change with technology. Incentives can make or break an industry. Film is one of the most economic investments in the state. The current incentives are not enough to film all projects that would film in Washington so projects end up going to other states. Film projects promote economic development and positive visibility for communities. Film is a clean industry that supports the local economy. Many businesses and restaurants benefit; this can create and save local jobs. Filmworks is crucial in providing referrals to locations for filming. Film work in Washington gets seen around the world; this boosts and amplifies the state. Cast and crew are needed here in Washington to support the industry; this can be done by having a robust film incentive program.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) Funding assistance provided under the Motion Picture Competitiveness Program (Program) has had significant economic impacts statewide, generating \$447 million in economic activity from a state investment of \$54.7 million. The Program has also created over 24,800 jobs for workers in the state. The Program has a broad impact across the economy, including the economic multiplier from film industry investment. The Program helps support a wide array of businesses in the state, including restaurants, hotels, and main-street businesses. This bill would help support Washington's creative community, which has been hit hard by the pandemic.

The funding for the Program has not increased since its inception in 2006. The Program always has more applications than funding provides. The increase in Program funding in the bill would be transformative for the film industry in Washington. This bill would help make Washington competitive nationally and a leader in the region. Currently, Washington has one of the worst film investment incentive programs in the country.

There is a lack of support and resources for BIPOC voices and true action by film industry gatekeepers toward equity. Filmworks is doing this work now, including making decisions to dismantle structural racism both in the organization and the Washington film industry overall. With this, Filmworks is taking concrete steps towards the long-term goal of inclusivity in the film industry. This bill provides the funding to embed this work in the Program.

The Program has a rigorous review process, including that no funds are paid out until after jobs are created and money is spent with local businesses. Every receipt, payroll report, and pay stub is reviewed.

Washington is the only state that requires approved productions to provide health and

retirement benefits for workers. The portable benefits for these gig workers are incredibly meaningful.

A local government official should be included on the Board of Directors. The projects affect local governments both positively and negatively, so local governments should have a voice.

(Opposed) None.

Persons Testifying (Community & Economic Development): Representative Marcus Riccelli, prime sponsor; Amy Lillard and Julie Daman, Washington Filmworks; Myron Partnman; Frances Grace Mortel; Jay Kim; Ron Leamon; Abie Ekenezar; Melissa Purcell; Sherrye Wyatt; Nike Imoru; and Jonathan Bingle.

Persons Testifying (Finance): Representative Marcus Riccelli, prime sponsor; Rick Hughes, Ray's Pharmacy; Amy Lillard and Julie Daman, Washington Filmworks; and Andrea A. Stuart-LeHalle.

Persons Signed In To Testify But Not Testifying (Community & Economic Development): None.

Persons Signed In To Testify But Not Testifying (Finance): None.