

# SENATE BILL REPORT

## ESHB 1914

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As Passed Senate - Amended, March 10, 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:** Passed House: 3/4/22, 93-3.

**Committee Activity:** Ways & Means: 3/07/22, 3/09/22 [DPA, DNP, w/oRec].

**Floor Activity:** Passed Senate - Amended: 3/10/22, 45-3.

### Brief Summary of Bill (As Amended by Senate)

- Modifies the membership of the board of directors of the Motion Picture Competitiveness Program (Program).
- Adds supporting the growth and development of the state film industry as an allowable use of Program funding assistance.
- Establishes a goal and an enhancement award for productions in rural communities.
- Increases the total statewide Business and Occupation (B&O) tax credit limit for Program contributions from \$3.5 million to \$15 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.

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### SENATE COMMITTEE ON WAYS & MEANS

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*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:** Do pass as amended.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Billig, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Mullet, Muzzall, Pedersen, Rivers, 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 Senator Braun.

**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. No credit may be earned for contributions made on or after July 1, 2027.

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 to 35 percent of the 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 the total state investment. An episodic series that invests at least \$300,000 per episode, with a minimum of six episodes, may qualify up to 35 percent of the 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 members 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 Amended Bill:** The total statewide B&O tax credit limit for Program contributions is increased to \$15 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. The date in which credit may be earned for contributions is extended from on or after July 1, 2027, to on or after July 1, 2030.

An additional authorized use of Program funding assistance is 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.

The Filmworks Board membership is modified. The number of members is increased from nine to 12. 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 are required to comply with all requirements of a 501(c)(6) organization, including the prohibition on using information obtained as a board member for personal gain, and must also act in the best interest of the motion picture competitiveness program. Each board member is required to complete an annual conflict 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, then the board member must disclose such conflict and not be present for any discussion or vote on the application.

The board has a goal of committing at least 20 percent of funding assistance to motion picture productions located or filmed in rural communities and 20 percent to motion picture

productions that tell the stories of marginalized communities. The Program may use funds for developing resources to facilitate filming in rural communities. An enhancement award up to 10 percent may 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.

The Program must allocate funds for training and job placement for marginalized communities as follows: \$500,000 for fiscal years 2023 and 2024, and \$750,000 for each fiscal year thereafter.

Commerce must consider giving preference to motion picture productions that tell stories of marginalized communities when establishing criteria for the program.

Funding assistance must include up to \$3,000,000 for small motion picture productions that are produced in Washington State and 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 the amount of the total actual investment for the production is less than \$1,000,000.

The Program must reserve funding for any approved small motion picture production until the production has demonstrated it has secured financing for the remainder of the budget. The small motion picture production has six months to demonstrate it has secured the total budget, or the Program must make the funding assistance available to other eligible applicants.

Commerce must annually report to the Legislature on the Program. The report must include:

- a list of recipients of funding assistance from the prior year, with total estimated production costs, locations of productions, and the board's progress toward the goal of providing at least 20 percent of funding assistance to motion picture productions located or filmed in rural communities and 20 percent to motion picture productions that tell stories of marginalized communities; and
- information on workforce development, career connected learning, and business development activities, including information on scale and how they meet the goal of better supporting people from marginalized communities.

Entities contributing to the Program and receiving a tax credit, and not otherwise receiving funding assistance under the Program, are exempt from the Department of Revenue'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.

**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 Engrossed Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Motion picture productions have a significant economic impact statewide. Supporting the film industry has the potential to create jobs throughout the state. Filmworks is the only program in the country that requires funding recipients to provide health and retirement benefits to production employees. The program is modeled after the Main Street program and provides a dollar for dollar credit for contributions. Funding applications have to pass a rigorous review and approval process before any assistance is provided. Award amounts are directly based on the project's state investment. The goal with some of the changes in this bill is to ensure program policies are equitable. The dedicated funding for training will make film sets more inclusive.

**Persons Testifying:** PRO: Amy Lillard; Julie Daman, Washington Filmworks; Myron Partman.

**Persons Signed In To Testify But Not Testifying:** No one.