
SUBSTITUTE HOUSE BILL 1914

State of Washington

67th Legislature

2022 Regular Session

By House 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)

READ FIRST TIME 01/31/22.

1 AN ACT Relating to updating and expanding the motion picture
2 competitiveness program; amending RCW 43.365.005, 43.365.030,
3 43.365.020, 82.04.4489, 43.365.040, and 43.365.050; and repealing
4 2017 3rd sp.s. c 37 s 1101 (uncodified).

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

6 **Sec. 1.** RCW 43.365.005 and 2006 c 247 s 1 are each amended to
7 read as follows:

8 The legislature recognizes the motion picture industry in
9 Washington as a valuable commodity contributing greatly to the
10 economic vitality of the state and the cultural integrity of our
11 communities. The legislature further recognizes the production of in-
12 state motion pictures, television programs, and television
13 commercials creates a marked increase in tourism, family-wage jobs,
14 and the sale of local goods and services generating revenue for the
15 state. Furthermore, with captive national and international
16 audiences, the world is introduced to the state's pristine scenic
17 venues and reminded that the Pacific Northwest is a great place to
18 live and raise a family. The legislature also recognizes the inherent
19 educational value of promoting arts and culture as well as the
20 benefits of training young motion picture professionals who will
21 build a 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
3 economic expansion and threatens the state's reputation as a
4 production destination. With the emergence of tax incentives in
5 (~~thirty~~) other states nationwide, in-state producers are taking
6 their projects to more competitive economic climates, such as Oregon
7 and Vancouver, British Columbia, where compelling tax incentive
8 packages and subsidies are 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 The legislature also finds that more investment in the film
14 industry will increase revenue with Washington state businesses and
15 create family-wage jobs that pay health and retirement benefits for
16 Washington workers. With more investment in the film industry,
17 Washington state would attract bigger budget productions, which would
18 drive the formation of more film support businesses and significantly
19 increase the labor force as the state builds capacity.

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

29 **Sec. 2.** RCW 43.365.030 and 2012 c 189 s 3 are each amended to
30 read as follows:

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

37 (2) The board must evaluate and award financial assistance to
38 motion picture projects under rules set forth under RCW 43.365.020.

39 (3) The board must consist of the following members:

1 (a) (~~One member~~) Two members representing the Washington motion
2 picture production industry, one of whom must demonstrate expertise
3 in the financing of motion picture projects;

4 (b) (~~One member representing the Washington motion picture~~
5 ~~postproduction industry;~~

6 ~~(c)~~) One member representing technologies impacting the
7 Washington (~~interactive media or~~) emerging motion picture industry;

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

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

12 ~~(f) One member representing the Washington tourism industry;~~

13 ~~(g) One member representing the Washington restaurant, hotel, and~~
14 ~~airline industry)~~) (d) Three members representing industries and

15 businesses impacted by motion picture production, one of whom must
16 represent industries or businesses located east of the crest of the
17 Cascade mountain range and one of whom must represent industries or
18 businesses located west of the crest of the Cascade mountain range;

19 (e) Two cochairs of the board's equity committee, not already
20 serving on the board, recommended by the board to the governor;

21 (f) Two cochairs of the board's advisory committee, also known as
22 the film leadership council, not already serving on the board,
23 recommended by the board to the governor; and

24 (~~(h)~~) (g) A chairperson, chosen at large, must serve at the
25 pleasure of the governor.

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

28 (5) The governor must appoint board members (~~in 2010~~) to (~~two-~~
29 ~~year or~~) four-year staggered terms (~~Once the initial two-year or~~
30 ~~four-year terms expire, all subsequent terms are for four years. The~~
31 ~~terms of the initial board members are as follows:~~

32 ~~(a) The board positions in subsection (3) (b), (c), and (g) of~~
33 ~~this section, and one position from subsection (3) (d) of this section~~
34 ~~must be appointed to two-year terms; and~~

35 ~~(b) The remaining board positions in subsection (3) of this~~
36 ~~section shall be appointed to four-year terms), except the board~~

37 member initially appointed to the position in subsection (3) (b) of
38 this section and the board member initially appointed to the position
39 in subsection (3) (f) of this section must each be appointed to a two-

1 year term. Once those initial two-year terms expire, all subsequent
2 terms are for four years.

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

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

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

9 (9) The board must make any information available at the request
10 of the department to administer this chapter.

11 (10) Contributions received by a board must be deposited into the
12 account described in RCW 43.365.020(2).

13 **Sec. 3.** RCW 43.365.020 and 2012 c 189 s 2 are each amended to
14 read as follows:

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

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

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

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

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

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

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

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

1 (h) Partnerships with the private sector to bolster film
2 production in the state and serve as an educational and cultural
3 purpose for its 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) Giving preference to additional seasons of television series
8 that have previously qualified;

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

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

14 (3) Money received by the approved motion picture competitiveness
15 program shall be used only for:

16 (a) Health insurance and payments into a retirement plan, and
17 other costs associated with film production; (~~and~~)

18 (b) Staff and related expenses to maintain the program's proper
19 administration and operation; and

20 (c) Supporting the growth and development of the Washington state
21 film industry through career connected learning, workforce
22 development, and business development with a focus on better
23 supporting people from marginalized or rural communities.

24 (4) Except as provided otherwise in subsection (7) of this
25 section, maximum funding assistance from the approved motion picture
26 competitiveness program is limited to an amount up to thirty percent
27 of the total actual investment in the state of at least:

28 (a) Five hundred thousand dollars for a single motion picture
29 produced in Washington state; or

30 (b) One hundred fifty thousand dollars for a television
31 commercial associated with a national or regional advertisement
32 campaign produced in Washington state.

33 (5) Except as provided otherwise in subsection (7) of this
34 section, maximum funding assistance from the approved motion picture
35 competitiveness program is limited to an amount up to thirty-five
36 percent of the total actual investment of at least three hundred
37 thousand dollars per episode produced in Washington state. A minimum
38 of six episodes of a series must be produced to qualify under this
39 subsection. A maximum of up to thirty percent of the total actual

1 investment from the approved motion picture competitiveness program
2 may be awarded to an episodic series of less than six episodes.

3 (6) With respect to costs associated with nonstate labor for
4 motion pictures and episodic services, funding assistance from the
5 approved motion picture competitiveness program is limited to an
6 amount up to fifteen percent of the total actual investment used for
7 costs associated with nonstate labor. To qualify under this
8 subsection, the production must have a labor force of at least
9 eighty-five percent of Washington residents. The board may establish
10 additional criteria to maximize the use of in-state labor.

11 (7) (a) The approved motion picture competitiveness program may
12 allocate an annual aggregate of no more than ten percent of the
13 qualifying contributions by the program under RCW 82.04.4489 to
14 provide funding support for filmmakers who are Washington residents,
15 new forms of production, and emerging technologies.

16 (i) Up to thirty percent of the actual investment for a motion
17 picture with an actual investment lower than that of motion pictures
18 under subsection (4) (a) of this section; or

19 (ii) Up to thirty percent of the actual investment of an
20 interactive motion picture intended for multiplatform exhibition and
21 distribution.

22 (b) Subsections (4) and (5) of this section do not apply to this
23 subsection.

24 (8) Funding assistance approval must be determined by the
25 approved motion picture competitiveness program within a maximum of
26 thirty calendar days from when the application is received, if the
27 application is submitted after August 15, 2006.

28 **Sec. 4.** RCW 82.04.4489 and 2017 3rd sp.s. c 37 s 1102 are each
29 amended to read as follows:

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

34 (2) The person must make the contribution before claiming a
35 credit authorized under this section. Credits earned under this
36 section may be claimed against taxes due for the calendar year in
37 which the contribution is made. The amount of credit claimed for a
38 reporting period may not exceed the tax otherwise due under this
39 chapter for that reporting period. No person may claim more than

1 ((seven hundred fifty thousand dollars)) \$1,000,000 of credit in any
2 calendar year, including credit carried over from a previous calendar
3 year. No refunds may be granted for any unused credits.

4 (3) The maximum credit that may be earned for each calendar year
5 under this section for a person is limited to the lesser of ((seven
6 hundred fifty thousand dollars)) \$1,000,000 or an amount equal to one
7 hundred percent of the contributions made by the person to a program
8 during the calendar year.

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

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

22 (6) Credits are available on a first-in-time basis. The
23 department must disallow any credits, or portion thereof, that would
24 cause the total amount of credits claimed under this section during
25 any calendar year to exceed ((three million five hundred thousand
26 dollars)) \$20,000,000. If this limitation is reached, the department
27 must notify all Washington motion picture competitiveness programs
28 that the annual statewide limit has been met. In addition, the
29 department must provide written notice to any person who has claimed
30 tax credits in excess of the limitation in this subsection. The
31 notice must indicate the amount of tax due and provide that the tax
32 be paid within thirty days from the date of the notice. The
33 department may not assess penalties and interest as provided in
34 chapter 82.32 RCW on the amount due in the initial notice if the
35 amount due is paid by the due date specified in the notice, or any
36 extension thereof.

37 (7) To claim a credit under this section, a person must
38 electronically file with the department all returns, forms, and any
39 other information required by the department, in an electronic format
40 as provided or approved by the department. Any return, form, or

1 information required to be filed in an electronic format under this
2 section is not filed until received by the department in an
3 electronic format. As used in this subsection, "returns" has the same
4 meaning as "return" in RCW 82.32.050.

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

8 (9) A Washington motion picture competitiveness program must
9 provide to the department, upon request, such information needed to
10 verify eligibility for credit under this section, including
11 information regarding contributions received by the program.

12 (10) The department may not allow any credit under this section
13 before July 1, 2006.

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

17 (12) Persons claiming a credit against the tax imposed under this
18 chapter for contributions made to a Washington motion picture
19 competitiveness program and not otherwise receiving funding
20 assistance under RCW 43.365.020 are exempt from the annual reporting
21 requirements in RCW 82.32.534 and 43.365.040.

22 (13) No credit may be earned for contributions made on or after
23 July 1, 2027.

24 **Sec. 5.** RCW 43.365.040 and 2012 c 189 s 5 are each amended to
25 read as follows:

26 (1) The legislature finds that accountability and effectiveness
27 are important aspects of setting tax policy. In order to make policy
28 choices regarding the best use of limited state resources the
29 legislature needs information on how incentives are used.

30 (2) Each motion picture production receiving funding assistance
31 under RCW 43.365.020 must report information to the department by
32 filing a complete annual survey. The survey is due by March 31st of
33 the year following any calendar year in which funding assistance
34 under RCW 43.365.020 is taken. The department may extend the due date
35 for timely filing of annual surveys under this section if failure to
36 file was the result of circumstances beyond the control of the motion
37 picture production receiving the funding assistance.

38 (3) The Washington motion picture competitiveness program
39 established in RCW 43.365.030, in collaboration with the department

1 and the department of revenue, and in consultation with the joint
2 legislative audit and review committee, must develop a survey form
3 and instructions that accompany the survey form by November 1, 2012.
4 The instructions must provide sufficient detail to ensure consistent
5 reporting. The survey must be designed to acquire data to allow the
6 state to better measure the effectiveness of the program and to
7 provide transparency of the motion picture competitiveness program.
8 The survey must include:

9 (a) The total amount of taxes paid;

10 (b) The amount of taxes paid classified by type, which may
11 include, but is not limited to, sales taxes, use taxes, business and
12 occupation taxes, unemployment insurance taxes, and workers'
13 compensation premiums;

14 (c) The amount of funding assistance received; and

15 (d) The following information for employment positions in
16 Washington by the motion picture production receiving funding
17 assistance, including indirect employment by contractors or other
18 affiliates:

19 (i) The number of total employment positions;

20 (ii) The average number of hours worked by employed individuals;

21 (iii) The average base pay of individuals employed by motion
22 picture companies, including contributions to health care benefits
23 and retirement plans;

24 (iv) The number of employment positions that have employer-
25 provided medical, dental, and retirement benefits; and

26 (v) The number of employment positions filled by Washington state
27 residents, and residency information for employment positions filled
28 by people from other locations.

29 (4) The department may request additional information necessary
30 to measure the results of the funding assistance program, to be
31 submitted at the same time as the survey.

32 (5) If a person fails to submit an annual survey under subsection
33 (2) of this section by the due date of the report or any extension
34 the department must declare the amount of funding assistance for the
35 previous calendar year to be immediately due and payable. The
36 department must assess interest, but not penalties, on the amounts
37 due under this section. The interest is assessed at the rate provided
38 for delinquent taxes under chapter 82.32 RCW, retroactively to the
39 date the funding assistance was received, and accrues until the
40 funding assistance is repaid.

1 (6) The department must use the information from this section to
2 prepare summary descriptive statistics. The department must report
3 these statistics to the legislature each even-numbered year by
4 September 1st. The department must provide the complete annual
5 surveys to the joint legislative audit and review committee, which
6 shall perform a review as required under RCW 43.365.050.

7 (7) The motion picture competitiveness program must periodically
8 audit and generally monitor the survey information submitted by
9 production companies for completeness and accuracy.

10 **Sec. 6.** RCW 43.365.050 and 2006 c 247 s 7 are each amended to
11 read as follows:

12 (~~The provisions of RCW 82.04.4489 are subject to review by the~~
13 ~~joint legislative audit and review committee.~~) (1) It is the
14 legislature's specific public policy objective to increase the
15 viability of the motion picture and film industry and associated
16 creative industries in Washington state. It is the legislature's
17 intent to increase the credit available under RCW 82.04.4489 in order
18 to attract additional motion picture and film projects, thereby
19 increasing family-wage jobs.

20 (2) The joint legislative audit and review committee ((will))
21 must review and make a recommendation to the (~~house finance~~
22 ~~committee and the senate ways and means committee)) fiscal committees
23 of the legislature by December 1, (~~(2010))~~ 2026, regarding the
24 effectiveness of the motion picture competitiveness program
25 including, but not limited to, the amount of state revenue generated,
26 the amount and number of family (~~(wages [wage])~~) -wage jobs with
27 benefits created, adherence to the criteria in RCW 43.365.020,
28 changes in Washington's share of the film employment market, and any
29 other factors deemed appropriate by the joint legislative audit and
30 review committee.~~

31 (3) In order to obtain the data necessary to perform the review
32 in subsection (2) of this section, the joint legislative audit and
33 review committee may refer to tax data provided to the department of
34 revenue and the annual survey required under RCW 43.365.040.

35 NEW SECTION. **Sec. 7.** 2017 3rd sp.s. c 37 s 1101 (uncodified) is
36 repealed.

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