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**SENATE BILL 5760**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Wellman, Frockt, Conway, Keiser, Lias, Lovelett, Nguyen, Rolfes, Short, and C. Wilson

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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~~) interactive entertainment industry who does not  
6 represent any aspect of that industry involved in gambling, as that  
7 term is defined in RCW 9.46.0237;

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

10 (d) Two members representing labor unions affiliated with  
11 Washington motion picture production;

12 (e) (~~One member representing the Washington visitors and~~  
13 ~~convention bureaus;~~

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

15 ~~(g) One member representing the Washington restaurant, hotel, and~~  
16 ~~airline industry)) Three members representing industries and  
17 businesses impacted by motion picture production, one of whom must  
18 represent industries or businesses located east of the crest of the  
19 Cascade mountain range and one of whom must represent industries or  
20 businesses located west of the crest of the Cascade mountain range;~~

21 (f) One cochair of the board's equity committee, not already  
22 serving on the board, recommended by the board to the governor;

23 (g) One cochair of the board's advisory committee, also known as  
24 the film leadership council, not already serving on the board,  
25 recommended by the board to the governor; and

26 (h) A chairperson, chosen at large, must serve at the pleasure of  
27 the governor.

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

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

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

37 ~~(b) The remaining board positions in subsection (3) of this~~  
38 ~~section shall be appointed to four-year terms)), except the board  
39 member initially appointed to the position in subsection (3) (c) of  
40 this section and the board member initially appointed to the position~~

1 in subsection (3)(g) of this section must each be appointed to a two-  
2 year term. Once those initial two-year terms expire, all subsequent  
3 terms are for four years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subsection. A maximum of up to thirty percent of the total actual  
2 investment from the approved motion picture competitiveness program  
3 may be awarded to an episodic series of less than six episodes.

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

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

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

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

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

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

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

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

35 (2) The person must make the contribution before claiming a  
36 credit authorized under this section. Credits earned under this  
37 section may be claimed against taxes due for the calendar year in  
38 which the contribution is made. The amount of credit claimed for a  
39 reporting period may not exceed the tax otherwise due under this

1 chapter for that reporting period. No person may claim more than  
2 (~~seven hundred fifty thousand dollars~~) \$1,000,000 of credit in any  
3 calendar year, including credit carried over from a previous calendar  
4 year. No refunds may be granted for any unused credits.

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

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

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

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

38 (7) To claim a credit under this section, a person must  
39 electronically file with the department all returns, forms, and any  
40 other information required by the department, in an electronic format

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

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

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

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

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

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

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

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

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

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



1 (3) The Washington motion picture competitiveness program  
2 established in RCW 43.365.030, in collaboration with the department  
3 and the department of revenue, and in consultation with the joint  
4 legislative audit and review committee, must develop a survey form  
5 and instructions that accompany the survey form by November 1, 2012.  
6 The instructions must provide sufficient detail to ensure consistent  
7 reporting. The survey must be designed to acquire data to allow the  
8 state to better measure the effectiveness of the program and to  
9 provide transparency of the motion picture competitiveness program.

10 The survey must include:

11 (a) The total amount of taxes paid;

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

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

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

21 (i) The number of total employment positions;

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

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

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

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

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

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

1 date the funding assistance was received, and accrues until the  
2 funding assistance is repaid.

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

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

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

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

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

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

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

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