
SUBSTITUTE SENATE BILL 5760

State of Washington

67th Legislature

2022 Regular Session

By Senate Business, Financial Services & Trade (originally sponsored by Senators Wellman, Frockt, Conway, Keiser, Lias, Lovelett, Nguyen, Rolfes, Short, and C. Wilson)

READ FIRST TIME 01/26/22.

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~~))
34 60 days following enactment. The department, after consulting with
35 the board, must adopt rules for the standards that shall be used to
36 evaluate the applications for funding assistance prior to June 30,
37 2006.

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

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

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

5 (b) One member representing the Washington (~~motion picture~~
6 ~~postproduction~~) interactive entertainment industry who does not
7 represent any aspect of that industry involved in gambling, as that
8 term is defined in RCW 9.46.0237;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (11) The board is subject to the provisions of the ethics in
16 public service act, chapter 42.52 RCW.

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

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

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

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

33 (c) The impact of motion picture projects to maximize in-state
34 labor and the use of in-state film production and film postproduction
35 companies;

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

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

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

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

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

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

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

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

15 (2) The board of directors created under RCW 43.365.030 shall
16 create and administer an account for carrying out the purposes of
17 subsections (3) and (4) of this section.

18 (3) In addition to established criteria set forth in subsection
19 (1) of this section, the board of directors' goal shall be for at
20 least 20 percent of the motion picture competitiveness program's
21 funding assistance committed to projects located, or filmed, in rural
22 communities.

23 (4) Money received by the approved motion picture competitiveness
24 program shall be used only for:

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

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

29 (c) Supporting the growth and development of the Washington state
30 film industry through career connected learning, workforce
31 development, and business development with a focus on better
32 supporting people from marginalized or rural communities; and

33 (d) Developing resources to facilitate filming in rural
34 communities including but not limited to economic development grants
35 for filming, training programs for film liaisons, information about
36 film permitting processes, and grants to support the expansion of
37 location database collateral.

38 ~~((4))~~ (5) Except as provided otherwise in subsections ~~((7))~~
39 (8) and (9) of this section, maximum funding assistance from the
40 approved motion picture competitiveness program is limited to an

1 amount up to (~~thirty~~) 30 percent of the total actual investment in
2 the state of at least:

3 (a) (~~Five hundred thousand dollars~~) \$500,000 for a single
4 motion picture produced in Washington state; or

5 (b) (~~One hundred fifty thousand dollars~~) \$150,000 for a
6 television commercial associated with a national or regional
7 advertisement campaign produced in Washington state.

8 (~~(5)~~) (6) Except as provided otherwise in subsections (7)
9 (8) and (9) of this section, maximum funding assistance from the
10 approved motion picture competitiveness program is limited to an
11 amount up to (~~thirty-five~~) 35 percent of the total actual
12 investment of at least three hundred thousand dollars per episode
13 produced in Washington state. A minimum of six episodes of a series
14 must be produced to qualify under this subsection. A maximum of up to
15 (~~thirty~~) 30 percent of the total actual investment from the
16 approved motion picture competitiveness program may be awarded to an
17 episodic series of less than six episodes.

18 (~~(6)~~) (7) With respect to costs associated with nonstate labor
19 for motion pictures and episodic services, funding assistance from
20 the approved motion picture competitiveness program is limited to an
21 amount up to fifteen percent of the total actual investment used for
22 costs associated with nonstate labor. To qualify under this
23 subsection, the production must have a labor force of at least
24 (~~eighty-five~~) 85 percent of Washington residents. The board may
25 establish additional criteria to maximize the use of in-state labor.

26 (~~(7)~~) (8)(a) The approved motion picture competitiveness
27 program may allocate an annual aggregate of no more than (~~ten~~) 10
28 percent of the qualifying contributions by the program under RCW
29 82.04.4489 to provide funding support for filmmakers who are
30 Washington residents, new forms of production, and emerging
31 technologies.

32 (i) Up to (~~thirty~~) 30 percent of the actual investment for a
33 motion picture with an actual investment lower than that of motion
34 pictures under subsection (5)(a) of this section; or

35 (ii) Up to (~~thirty~~) 30 percent of the actual investment of an
36 interactive motion picture intended for multiplatform exhibition and
37 distribution.

38 (b) Subsections ~~(4) and~~ (5) and (6) of this section do not
39 apply to this subsection.

1 ~~((8))~~ (9)(a) In addition to the maximum funding assistance
2 established in subsections (5) and (6) of this section, a 10 percent
3 enhancement award on a production's state investment shall be given
4 for productions located, or filmed, in a rural community.

5 (b) Total actual investment requirements established in
6 subsections (5) and (6) of this section apply to this subsection.

7 (10)(a) Funding assistance must include at least \$3,000,000 for
8 small productions produced in Washington state, subject to subsection
9 (11) of this section. An entity seeking funding assistance for a
10 small production must show that the amount of the total actual
11 investment for the production is less than \$3,000,000.

12 (b) Maximum funding assistance and total actual investment
13 requirements, established in subsections (5) and (6) of this section,
14 apply to small productions. The department shall adopt rules as
15 necessary to implement this subsection.

16 (11) Funding assistance approval must be determined by the
17 approved motion picture competitiveness program within a maximum of
18 thirty calendar days from when the application is received, if the
19 application is submitted after August 15, 2006. For small
20 productions, the program, after determining approval of a project,
21 shall hold the project's funding assistance while the entity seeking
22 assistance secures financing for the remainder of the total actual
23 investment in the project. Once the entity demonstrates to the
24 program that it has secured the remainder of the necessary financing,
25 the program shall release the funding assistance to the approved
26 small production. If the entity seeking funding assistance cannot
27 demonstrate within nine months that it has secured the remainder of
28 the total actual investment, the funding assistance shall be made
29 available to other eligible applicants with funding assistance
30 approval.

31 (12) For the purposes of this section, a rural community means:
32 (a) A rural county; (b) an area that is not delineated as an
33 urbanized area by the United States census bureau; or (c) an area
34 within a nonrural county that would otherwise be considered rural as
35 defined by the department.

36 (13) By December 31, 2022, and annually thereafter, the
37 department, on behalf of the board of directors, must report to the
38 legislature on the motion picture competitiveness program. This
39 report may include information required in the survey established in
40 RCW 43.365.040. At a minimum, the report must include an annual list

1 of recipients awarded financial assistance from the prior year with
2 total estimated production costs, locations of each production, and
3 the board's progress towards the goal of at least 20 percent of its
4 funding assistance provided to productions located, or filmed, in
5 rural communities established in subsection (3) of this section.

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

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

12 (2) The person must make the contribution before claiming a
13 credit authorized under this section. Credits earned under this
14 section may be claimed against taxes due for the calendar year in
15 which the contribution is made. The amount of credit claimed for a
16 reporting period may not exceed the tax otherwise due under this
17 chapter for that reporting period. No person may claim more than
18 (~~seven hundred fifty thousand dollars~~) \$1,000,000 of credit in any
19 calendar year, including credit carried over from a previous calendar
20 year. No refunds may be granted for any unused credits.

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

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

29 (5) Any amount of tax credit otherwise allowable under this
30 section not claimed by the person in any calendar year may be carried
31 over and claimed against the person's tax liability for the next
32 succeeding calendar year. Any credit remaining unused in the next
33 succeeding calendar year may be carried forward and claimed against
34 the person's tax liability for the second succeeding calendar year;
35 and any credit not used in that second succeeding calendar year may
36 be carried over and claimed against the person's tax liability for
37 the third succeeding calendar year, but may not be carried over for
38 any calendar year thereafter.

1 (6) Credits are available on a first-in-time basis. The
2 department must disallow any credits, or portion thereof, that would
3 cause the total amount of credits claimed under this section during
4 any calendar year to exceed (~~three million five hundred thousand~~
5 ~~dollars~~) \$20,000,000. If this limitation is reached, the department
6 must notify all Washington motion picture competitiveness programs
7 that the annual statewide limit has been met. In addition, the
8 department must provide written notice to any person who has claimed
9 tax credits in excess of the limitation in this subsection. The
10 notice must indicate the amount of tax due and provide that the tax
11 be paid within thirty days from the date of the notice. The
12 department may not assess penalties and interest as provided in
13 chapter 82.32 RCW on the amount due in the initial notice if the
14 amount due is paid by the due date specified in the notice, or any
15 extension thereof.

16 (7) To claim a credit under this section, a person must
17 electronically file with the department all returns, forms, and any
18 other information required by the department, in an electronic format
19 as provided or approved by the department. Any return, form, or
20 information required to be filed in an electronic format under this
21 section is not filed until received by the department in an
22 electronic format. As used in this subsection, "returns" has the same
23 meaning as "return" in RCW 82.32.050.

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

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

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

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

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

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

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

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

9 (2) Each motion picture production receiving funding assistance
10 under RCW 43.365.020 must report information to the department by
11 filing a complete annual survey. The survey is due by March 31st of
12 the year following any calendar year in which funding assistance
13 under RCW 43.365.020 is taken. The department may extend the due date
14 for timely filing of annual surveys under this section if failure to
15 file was the result of circumstances beyond the control of the motion
16 picture production receiving the funding assistance.

17 (3) The Washington motion picture competitiveness program
18 established in RCW 43.365.030, in collaboration with the department
19 and the department of revenue, and in consultation with the joint
20 legislative audit and review committee, must develop a survey form
21 and instructions that accompany the survey form by November 1, 2012.
22 The instructions must provide sufficient detail to ensure consistent
23 reporting. The survey must be designed to acquire data to allow the
24 state to better measure the effectiveness of the program and to
25 provide transparency of the motion picture competitiveness program.
26 The survey must include:

27 (a) The total amount of taxes paid;

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

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

33 (d) The following information for employment positions in
34 Washington by the motion picture production receiving funding
35 assistance, including indirect employment by contractors or other
36 affiliates:

37 (i) The number of total employment positions;

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

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

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

6 (v) The number of employment positions filled by Washington state
7 residents, and residency information for employment positions filled
8 by people from other locations.

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

12 (5) If a person fails to submit an annual survey under subsection
13 (2) of this section by the due date of the report or any extension
14 the department must declare the amount of funding assistance for the
15 previous calendar year to be immediately due and payable. The
16 department must assess interest, but not penalties, on the amounts
17 due under this section. The interest is assessed at the rate provided
18 for delinquent taxes under chapter 82.32 RCW, retroactively to the
19 date the funding assistance was received, and accrues until the
20 funding assistance is repaid.

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

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

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

32 (~~The provisions of RCW 82.04.4489 are subject to review by the~~
33 ~~joint legislative audit and review committee.~~) (1) It is the
34 legislature's specific public policy objective to increase the
35 viability of the motion picture and film industry and associated
36 creative industries in Washington state. It is the legislature's
37 intent to increase the credit available under RCW 82.04.4489 in order
38 to attract additional motion picture and film projects, thereby
39 increasing family-wage jobs.

1 (2) The joint legislative audit and review committee ((will))
2 must review and make a recommendation to the ~~((house—finance~~
3 ~~committee and the senate ways and means committee))~~ fiscal committees
4 of the legislature by December 1, ~~((2010))~~ 2026, regarding the
5 effectiveness of the motion picture competitiveness program
6 including, but not limited to, the amount of state revenue generated,
7 the amount and number of family ~~((wages—[wage]))~~ -wage jobs with
8 benefits created, adherence to the criteria in RCW 43.365.020,
9 changes in Washington's share of the film employment market, and any
10 other factors deemed appropriate by the joint legislative audit and
11 review committee.

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

16 NEW SECTION. Sec. 7. 2017 3rd sp.s. c 37 s 1101 (uncodified) is
17 repealed.

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