

Author: Nazarian Analyst: Jane Raboy Bill Number: AB 1199  
 Related Bills: See Legislative History Introduced  
 Telephone: 845-5718 Date: February 27, 2015  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	California Motion Picture Credit/75% or Minimum of \$100,000 of Qualified Music Expenditures Must Be Paid or Incurred in California
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**SUMMARY**

This bill, under the Personal Income Tax Law (PITL) and Corporation Tax Laws (CTL), would modify the California Motion Picture and Television Production Credit (Motion Picture Credit).

**RECOMMENDATION**

No position.

**REASON FOR THE BILL**

The reason for the bill is to support homegrown talent in California and stem the flow of runaway music scoring to other states and countries.

**EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2016.

**FEDERAL LAW**

Federal law lacks a credit for motion picture productions.

**STATE LAW**

For taxable years beginning on or after January 1, 2016, the Motion Picture Credit<sup>1</sup> is subject to a computation, ranking, and allocation by the California Film Commission (Commission) for an amount equal to 20 or 25 percent, of a qualified motion picture in California, as specified. The applicable credit percentage for the Motion Picture Credit is as follows:

- 20 percent of qualified expenditures attributable to either:
  - the production of a qualified motion picture in California, including, but not limited to, a feature, up to \$100 million dollars in qualified expenditures, or

<sup>1</sup> See Revenue and Taxation Code (R&TC) sections 17053.95 and 23695.

<b>Board Position:</b>	<b>Executive Officer</b>	<b>Date</b>
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- a television series that relocated to California that is in its second or subsequent year of receiving a tax credit allocation under the new motion picture credit or under the original motion picture credit.

An additional credit, in an aggregate amount not to exceed 5 percent of the qualified expenditures is allowed to a qualified motion picture as follows:

- 5 percent of qualified expenditures relating to original photography outside the Los Angeles zone.
- 5 percent of qualified expenditures relating to music scoring and music track recording by musicians attributable to the production of a qualified motion picture in California.
- 5 percent of the qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.
- 25 percent of qualified expenditures attributable to the production of a qualified motion picture where the qualified motion picture is a television series that relocated to California in its first year of receiving a tax credit allocation.
- 25 percent of qualified expenditures, up to \$10 million dollars, attributable to the production of a qualified motion picture that is an independent film.

## **THIS BILL**

This bill would modify the applicable credit percentage requirement authorizing an additional 5 percent of the qualified expenditures relating to music to include qualified music preparation and music editing.

"Qualified music preparation, music scoring, music track recording, and music editing" would mean music preparation, music scoring, music track recording, and music editing where at least 75 percent; or a minimum of \$100,000 of the total expenditures for the music preparation, music scoring, music track recording, and music editing, is paid or incurred in California.

## **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would occur during the department's normal annual update.

## **TECHNICAL CONSIDERATIONS**

To ensure that payments, including qualified wages for services are performed within this state, the phrase on page 8, lines 1 and 2, "is paid or incurred in California" should be amended to read "are qualified expenditures".

## LEGISLATIVE HISTORY

AB 688 (Gomez, 2015/2016), would extend the new<sup>2</sup> Motion Picture Credit an additional year, to July 1, 2021, and specify the aggregate amount of credits that may be allocated for fiscal year 2020-2021. AB 688 is currently in the Assembly Revenue and Taxation Committee.

AB 1839 (Gatto, Bocanegra, et al., Chapter 413, Statutes of 2014) allows a tax credit of 20 percent of qualified expenditures up to \$100 million for feature films or television show, a 25 percent credit for relocated TV series and independent films; including an additional 5 percent credit of qualified expenditures for the production of a qualified motion picture in California.

AB 1435 (Gatto, 2013/2014), would have created a credit for investments in a qualified film and digital media infrastructure project and modified the California Motion Picture Credit. AB 1435 was held at the Assembly desk.

AB 2700 (Nazarian, 2013/2014), would have created a new tax credit in an amount equal to 25 percent for qualified post production costs for qualified motion pictures. AB 2700 was held in the Assembly Appropriation Committee.

## OTHER STATES' INFORMATION

The states reviewed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Florida* created a five-year \$296 million transferable corporate income tax credit incentive program for the film and entertainment industry. Generally, the credits are 20 percent of qualified expenditures, with additional amounts available under certain circumstances.

*Illinois* offers a film production services credit equal to 30 percent of all qualified expenditures, including post-production, and includes an additional 15 percent film production services credit for salaries for individuals living in an economically disadvantaged area. The *Illinois* credit only applies to residents' wages, limited to \$100,000.

*Massachusetts* allows a transferable 25 percent payroll credit on aggregate payroll that is subject to a personal income tax withholding. There is also a transferable 25 percent qualified production expense credit for production companies.

*Michigan* does not provide for credits for qualified production companies, film and digital media infrastructure investments, or film and television job training expenditures.

*Minnesota* lacks any motion picture or film production credits.

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<sup>2</sup> See Revenue and Taxation Code (R&TC) sections 17053.95 and 23695.

*New York* offers a NY State Film Production Credit that is refundable and equal to 30 percent of qualified costs incurred in New York State and \$7 million per year is reserved for the New York State Post Production Credit.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### **Revenue Estimate**

This bill as introduced February 27, 2015, would not impact the state's personal or corporation tax revenues.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

### **Revenue Discussion**

The revenue estimate assumes that the Commission would fully allocate the Motion Picture Credit each fiscal year. Because the credit's existing allocation limits would be unchanged, this bill would not impact the state's personal or corporation tax revenues.

## **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some supporters may argue that additional incentives are needed to expand and improve state competitiveness in attracting and retaining all trades necessary to create a qualified motion picture.

Opponents: Some have questioned whether motion picture credits, in general, have an appreciable long-term benefit to the state.

## **LEGISLATIVE STAFF CONTACT**

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