



Analysis of Original Bill

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Sponsor:

Bill Number: AB 1734

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Introduced: January 3, 2018

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Related Bills: See Legislative
History

Subject: California Motion Picture and Television Production Credit

Summary

This bill would, under the Personal Income Tax and Corporation Tax Laws, modify the California Motion Picture and Television Production Credit (Motion Picture Credit), Chapter 413, Statutes of 2014.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

Recommendation – No position.

Reason for the Bill

The reason for the bill is to modify the sunset date and the annual credit allocation cap on the motion picture credit.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and operative as of that date.

Federal Law

Federal law lacks a motion picture credit.

State Law

For taxable years beginning on or after January 1, 2016, state law allows a Motion Picture Credit¹ that is administered by the California Film Commission (Commission). The credit is calculated by multiplying the qualified expenditures for a production of a motion picture in California, as certified by the Commission, by an applicable credit percentage.

¹ See Revenue & Taxation Code (R&TC) sections 17053.95 and 23695.

A qualified taxpayer, in lieu of claiming the Motion Picture Credit on the income tax return, may make an irrevocable election to apply the credit amount against their qualified sales and use tax liability.²

The aggregate amount of credits that may be allocated by the Commission for a fiscal year is:

- \$230 million for the 2015-2016 fiscal year; and
- \$330 million for the 2016-2017 fiscal year and each fiscal year thereafter, through and including the 2019-20 fiscal year; plus any amount, as specified.

The Commission's authority to allocate the Motion Picture Credit to applicants expires on June 30, 2020.

This Bill

This bill would extend the Commission's authority to allocate the Motion Picture Credit to an unspecified date and modify the annual aggregate amount of credits that the Commission may allocate to an unspecified amount, for fiscal years 2016-2017 through an unspecified date.

Implementation Considerations

The department's responsibility to process credit certifications would be unchanged under the terms of this bill. However, the impact of the bill's changes on the volume and timing of the certifications the department would process remains uncertain until the allocation amount is specified and the question of whether the change would be retroactive to fiscal year 2016-2017 is resolved.

Legislative History

SB 951 (Mitchell, 2017/2018), would extend the Commission's authority to allocate the Motion Picture Credit through an unspecified fiscal year. SB 951 was introduced on January 30, 2018.

AB 688 (Gomez, 2015/2016), would have extended the Commission's authority to allocate the Motion Picture Credit for an additional year, through June 30, 2021, and would have increased the aggregate amount of credits that may be awarded. AB 688 failed to pass out of the Assembly by the constitutional deadline.

AB 1189 (Nazarian, 2013/2014), would have extended the original Motion Picture Credit by five years, until July 1, 2022, and would have increased the aggregate amount of credits awarded. AB 1189 failed to pass out of the Assembly by the constitutional deadline.

² See R&TC section 6902.5.

AB 1839 (Gatto, Bocanegra, et al., Chapter 413, Statutes of 2014) added a new statute for the Motion Picture Credit for the production of a qualified motion picture for taxable years beginning July 1, 2016, and before July 1, 2020.

AB 2026 (Fuentes, Chapter 841, Statutes of 2012) extended the original Motion Picture Credit by two additional years, until July 1, 2017, and increased the aggregate amount of credits awarded.

AB 1069 (Fuentes, Chapter 731, Statutes of 2011) extended the original Motion Picture Credit by one additional year, until July 1, 2015, and increased the aggregate amount of credits awarded.

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 \$296 million per year or approximately \$1.5 billion transferable corporate income tax credit incentive program for the film and entertainment industry. The program began on July 1, 2010, and expired June 30, 2016.

Illinois offers a state credit based on the salaries paid to individuals living in an economically disadvantaged area and applies to residents' wages, limited to \$100,000. However, it lacks an annual allocation-funding cap. The credit will sunset in 2021.

Massachusetts allows two motion picture production income tax credits for taxable years beginning on or after January 1, 2006, and before January 1, 2023. It lacks an annual allocation-funding cap or project cap.

Michigan lacks a motion picture or film production credit.

Minnesota lacks a motion picture or film production credit.

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. The funding allocated to the program totals \$420 million per year or approximately \$3.8 billion for calendar years 2010 to 2019, inclusive.

Fiscal Impact

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Economic Impact

This bill as introduced on January 3, 2018, amends R&TC sections 17053.95 and 23695. The department is unable to determine the revenue impact of this bill because the allocation limitation needed to complete the calculation is unspecified.

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

Support/Opposition

Support

None provided

Opposition

None provided

Arguments

Proponents

Some may argue that the program targets at-risk motion picture productions that are most likely to leave the state due to incentives being offered in other states and countries and this credit would enable California to remain competitive.

Opponents

Some may argue that the cost to the general fund of modifying the allocation authority and allocation amount outweighs the benefit of continuing the film credit as currently specified.

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