



Analysis of Original Bill

Author: Mitchell

Sponsor:

Bill Number: SB 951

Analyst: Jessica Deitchman

Phone: (916) 845-6310

Introduced: January 30, 2018

Attorney: Bruce Langston

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 New California Motion Picture and Television Production Credit (Motion Picture Credit).

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, for fiscal years 2016-2017 through an unspecified date.

Implementation Considerations

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

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 question of whether the change would be retroactive to fiscal year 2016-2017 is resolved.

Legislative History

AB 1734 (Calderon, 2017/2018), would extend the Commission's authority to allocate the Motion Picture Credit through an unspecified fiscal year. AB 1734 was introduced on January 3, 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 pictures for fiscal years beginning on or after January 1, 2016.

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 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 and *Minnesota* lack 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

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 951 as Introduced January 30, 2018
For Taxable Years Beginning On or After January 1, 2018
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue
2021-2022	- \$25
2022-2023	- \$80
2023-2024	- \$130

This estimate does not include the credit amount applied against Sales & Use tax.

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

Revenue Discussion

This bill would extend the movie credit and allow additional allocations of \$330 million beginning in fiscal year 2020-21, with no sunset date. The timing and usage of the credit is based on the current movie credit activity. It is assumed that the first additional allocation would occur on July 1, 2020, and approximately \$210 million of this allocation would be certified in 2022 and the remaining \$120 million would be certified over the next several years.

Of the certified amount, it was assumed that production companies would use 35 percent, or \$70 million, would be used in the year certified, increasing to \$250 million by 2027. It is assumed that 90 percent of the credit would be used by corporations and the remaining 10 percent would be used by personal income taxpayers. The tax-year estimates are converted to fiscal-year estimates, and then rounded to arrive at the estimates shown in the above table.

Support/Opposition³

Support: Non California IATSE Council, Entertainment Union Coalition, Motion Picture Association of America, Inc., Directors Guild of America, Screen Actors Guild-America Federation of Television and Radio Artists, LiUNA! Local 724-Laborers, Teamsters Local 399—Studio Transportation, Drivers, Location Managers, IATSE Local 16—San Francisco/Bay Area, IATSE Local 44- Affiliated Property, Craftspersons, IATSE Local 80- Motion Picture Studio Grips/Crafts Services, IATSE Local 600-International Cinematographers Guild, IATSE Local 695—Production Sound and Video Technicians, IATSE Local 706—Make Up Artists & Hair Stylists Guild,, IATSE Local 728---Studio Electrical LightingTechnicians, IATSE Local 729- Motion Picture Set Painters and sign Writers, IATSE Local 767-Motion Picture First Aid Employees, IATSE Local 800---Art Directors Guild, IATSE Local 892---Costume Designers Guild, IATSE Local 884----Motion Picture Studio Teachers, IATSE Local 871—Script Supervisors/Continuity/Accountants and Allied Production Specialists, IATSE Local 705--- Motion Picture Costumers, IATSE Local 700 -Motion Picture Editors.

³ As provided on Fact Sheet.

Opposition: None Provided.

Arguments

Proponents: Some may argue that extending this credit would enable California to remain competitive with other states and countries that provide incentives for motion picture production in their jurisdiction.

Opponents: Some may argue that the cost to the general fund would outweigh the benefit to the state of modifying and extending the existing film credit.

Legislative Staff Contact

Jessica Deitchman
Legislative Analyst, FTB
(916) 845-6310
jessica.deitchman@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov