STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Portantino, et al.

Sponsor:

Bill Number: SB 485

Related Bills: See Legislative History

Amended: January 03, 2022

SUBJECT

Motion Picture and Television Production Tax Credit Allocation Extension

SUMMARY

This bill would amend the existing motion picture credit under Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), to extend the period allowing the California Film Commission (CFC) to allocate motion picture tax credit to applicants by five years.

This bill would also extend the current authorization of the CFC to allocate the aggregate amount of credits by five years.

This bill would also extend the final fiscal year of credit authorization from which the CFC would draw when making required adjustments in years in which insufficient tax credits are available to fund all recurring television series.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

As explained below, previous versions of this bill contained provisions that were subsequently enacted by SB 144 (Portantino, et al., Chapter 114, Statutes of 2021). The January 2022 amendments make changes to the statutory language as enacted by that measure.

The March 10, 2021, amendments removed the bill's provisions that would have amended the existing motion picture credit under PITL, and introduced new language under both PITL and CTL to add a new credit pertaining to qualified motion pictures produced at a certified studio construction project. The March 10, 2021, amendments also added a new code section to provide guidelines regarding the certification procedures related to specific studio construction projects.

The April 29, 2021, amendments moved the provisions of the new credit to the existing motion picture credit, and renumbered the proposed provisions for the certification procedures.

The May 11, 2021, amendments made several technical corrections.

The May 20, 2021, amendments added a co-author and made a nonsubstantive technical change.

The January 03, 2022, amendments added several co-authors, removed prior provisions of this bill to reflect the statutory changes made by Senate Bill (SB) 144 (Portantino, et al., Chapter 114, Statutes of 2021).

The January 03, 2022, amendments also extended the period allowing the CFC to allocate existing tax credit to applicants from July 1, 2025, to July 1, 2030, extended the current authorization of the CFC to allocate the aggregate amount of credits from fiscal year 2024-2025 to fiscal year 2029-2030, and changed the fiscal year of credit authorization from 2024-2025 to 2029-2030 in the event of insufficient credits available to fund all recurring television series.

REASON FOR THE BILL

The reason for the bill is to encourage the production of television series and motion pictures in California.

ANALYSIS

This bill would, under PITL and CTL, authorize the CFC to allocate tax credits to applicants on or after July 1, 2020, and before July 1, 2030, in two or more allocation periods per fiscal year.

This bill would make various changes to the CFC allocation process and extend the date that the CFC could allocate previously unallocated credits or unused allocation credit amounts to on or after July 1, 2030.

This bill would extend the period allowing the CFC to allocate up to twenty five percent (25%) of total credit allocations that would otherwise be allocated for recurring television series in the current fiscal year until the shortfall is eliminated, by five years. The final fiscal year for credit allocations would change from 2024-2025 to 2029-2030. The CFC would not be allowed certify the credit allocations that are subtracted from 2029-2030 fiscal year until July 1, 2030, or later.

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, 2022.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

For taxable years beginning on or after January 1, 2020, state law allows qualified taxpayers a tax credit in an amount equal to the applicable percentage of the qualified expenditures for the production of a qualified motion picture in California. [1] Credit amounts are allocated and certified by the CFC. No credit is allowed for any otherwise qualified expenditures to the extent that another Motion Picture Credit has been claimed for the same expenditures.

The credit allowed to a qualified taxpayer is limited to the amount specified in the credit certification issued by the CFC.

The applicable credit percentages are:

- 20 percent of the qualified expenditures, up to $100 million attributable to the production of a qualified motion picture in California including, but not limited to, a feature or a television series that relocated to California that is in its second or subsequent years of receiving an allocation for this tax credit.
- 25 percent of the qualified expenditures, up to $100 million, attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving an allocation of this tax credit.
- 25 percent of the qualified expenditures, up to $10 million, attributable to the production of a qualified motion picture that is an independent film.

[1] RTC§s 17053.98 and 23698

The applicable credit percentage for the 20 percent category, detailed above, could be increased by 5 percent of qualified expenditures relating to:

- Original photography outside of the Los Angeles zone.
- Qualified visual effects attributable to the production of a qualified motion picture in California.

An additional credit in the amount of 10 percent of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals that reside within California but outside of the Los Angeles zone is allowed for the production of a qualified motion picture within California where the applicable credit percentage is 20 percent.

An additional credit in the amount of five percent of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals that reside within California but outside of the Los Angeles zone is allowed for the production of a qualified motion picture within California where the applicable credit percentage is 25 percent.

The aggregate amount of the credits that may be allocated by the CFC is three hundred thirty million dollars ($330,000,000) for the 2020-2021 fiscal year and for each fiscal year thereafter though and including the 2024-2025 fiscal year. Furthermore, the CFC may on or after July 1, 2025, allocate any previously allocated, but not certified credit amounts to credits available for allocation.

If the credit exceeds net tax for the taxable year, it is allowed to be carried over to the succeeding nine taxable years.

With some restrictions, a qualified taxpayer may sell the credit that is attributable to an independent film to an unrelated party. The unrelated party or parties that purchase a credit are treated as a qualified taxpayer.

If on July 1, 2025, the CFC determines that credits allocated remain unused and have not been added to credit amounts available for allocation under a successor section or sections, the CFC may continue to make allocations of the unused credits until such time as the unused credits are fully utilized.

For taxable years 2020, 2021, and 2022, and under PITL and CTL, certain taxpayers may not reduce their business tax liability by more than $5 million. The carryover period for the credits limited by this provision are extended for each taxable year the credit is limited.

State law, under the PITL and the CTL, amends the existing motion picture and film credit to add an additional credit for taxable years beginning on or after January 1, 2022, and before January 1, 2032, equal to 20 percent (20%) or 25 percent (25%), or as modified by up to four percent (4%), of the "qualified expenditures" paid or incurred by a qualified motion picture (QMP) produced at a certified studio construction project in California.

New credits are allocated based on the assumption that the motion picture meets the diversity goals provided in the diversity workplan.

A QMP that receives a motion picture and film credit under the existing provisions is not eligible for an allocation under the new credit provisions. However, any television series, relocating television series, recurring television series, or any new television series based on a pilot for a new television series that is no longer eligible for the motion picture and film credit are eligible to apply for an allocation under the existing credits.

The credit could be carried over for nine years, until exhausted.

Implementation Considerations

None.

Technical Considerations

None.

Policy Considerations

None.

LEGISLATIVE HISTORY

SB 144 (Portantino, et al., Chapter 114, Statutes of 2021) amended the existing motion picture credit under PITL and CTL, to provide for an additional credit for expenditures related to the production of a qualified motion picture at a certified project. This bill also added new provisions relating to the certification procedures of a project that are administered by the CFC.

SB 871 (Committee on Budget and Fiscal Review, Chapter 54, Statutes of 2018) allows a Motion Picture Credit for taxable years beginning on or after January 1, 2020, to a qualified taxpayer for qualified expenditures for the production of a qualified motion picture in California.

AB 1442 (Rivas, 2019/2020), would have created a relocation credit for relocation of film production to California from a state that restricts a woman's access to abortion services. This bill was held in the Senate Appropriations Committee without further action.

AB 1734 (Calderon, 2017/2018), would have created a new Motion Picture Credit. AB 1734 did not pass out of the Senate by the constitutional deadline.

SB 832 (Portantino, et al., 2017/2018), would have created a new Motion Picture Credit. SB 832 did not pass out of the Senate by the constitutional deadline.

SB 951 (Mitchell, 2017/2018,) would have created a new Motion Picture Credit. SB 951 did not pass by out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

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 485 as Amended January 3, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	$0
2023-2024	$0
2024-2025	$0
2025-2026	-$6.1
2026-2027	-$30

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support

The Senate Committee on Governance and Finance analysis dated January 21, 2022, includes the following support: California IATSE Council; California Labor Federation, AFL-CIO; Entertainment Union Coalition; Motion Picture Association and Writers Guild of America West.

Opposition

None noted.

ARGUMENTS

Proponents

The Senate Committee on Governance and Finance analysis dated January 21, 2022, states the following:

> The success we have had with California's film tax credits has helped bring back significant productions back to where they belong and created thousands of good-paying middle-class jobs. With the extension of the current credit, we can ensure that we continue to bring back more jobs and sustain job creation for years to come. Long-term investment means that we can have generations of entertainment careers created in California and will allow us to remain competitive with other states. Long-term investment in new sound stages will also yield to thousands of jobs, millions of dollars in wages and billions of dollars of economic benefit for California.

Opponents

The Senate Committee on Governance and Finance analysis dated January 21, 2022, did not include arguments in opposition.

LEGISLATIVE CONTACT

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