



Bill Analysis

Author: Allen

Sponsor:

Bill Number: SB 611

Related Bills: See Legislative
History

Introduced February 18, 2021,
Amended March 10, April 29,
and May 11, 2021

SUBJECT

California Motion Picture & Television Production Credit: Additional Credit Percentage for Career Pathways Program Participants

SUMMARY

This bill, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), would allow an additional credit to a qualified taxpayer for qualified wages paid to graduates of certain training programs.

In addition, this bill would require an applicant to include in the credit application a workforce development plan summarizing the applicant's voluntary programs to increase the representation of individuals from underserved communities.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 10, 2021, amendments eliminated the provisions related to charitable contribution deduction and added the changes to the motion picture production credit, including the increase to the jobs ratio for applicants that pay in excess of unspecified percent of its total wages paid during the production period to qualified individuals who have completed a career pathways training program or an equivalent program.

The April 29, 2021, amendments eliminated the following modifications that allowed the California Film Commission (Commission) to:

- Increase to the movie production's jobs ratio for applicants that pay in excess of unspecified percent of its total wages paid during the production period to qualified individuals who have completed a career pathways training program or an equivalent program, and
- Reduce the credit allowed for movies that received the increase in their jobs ratio if they do not meet the excess pay requirement.

In addition, the April 29, 2021, amendments allowed additional credit for qualified wages paid to graduates of certain training programs and would require an applicant to include a workforce development plan in the credit application filed with the Commission. The amendment also eliminated the requirement for an applicant to include the summary of the applicant's programs to increase representation of minorities and women in job classifications that are not included in specified qualified wages.

The May 11, 2021, amendment added a clarification that additional credits for the qualified wages paid by the qualified motion picture to graduates of certain training programs would be allowed for the production, as determined by the Commission.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to incentivize motion picture production credit applicants to employ individuals who have completed a Career Pathways Training program or an equivalent program.

ANALYSIS

This bill would, for taxable years beginning on or after January 1, 2020, allow an additional credit to a qualified taxpayer for the production of a qualified motion picture in California. The amount of additional credit would be equal to 20 percent of the qualified wages paid to qualified individuals who are graduates of the Career Pathways Training program or an equivalent program approved by the Commission.

The qualified motion picture would be allowed the additional credit if both of the following conditions are met:

- The qualified motion picture files a workforce development plan with the Commission that is approved by the Commission; and
- The qualified motion picture pays qualified wages to a graduate of the Career Pathways Training program or an equivalent program approved by the Commission in at least 60 percent of the departments for that production as determined by the Commission.

As a part of the application filed with the Commission, a qualified taxpayer would be required to include a workforce development plan. The plan would summarize the applicant's voluntary programs to increase the representation of individuals from underserved communities in all job classifications in all departments of production and information about how these programs are publicized to interested parties in those communities. The officer or executive signing the statement would be required to provide additional information about these programs upon request to the California Film Commission.

The requirement to include workforce development plan would not apply to the applicants producing qualified motion pictures, unless that production is seeking to qualify for the additional credit that would be allowed under this bill, in the following categories:

- Independent films with a minimum budget of one million dollars (\$1,000,000) that is produced by a company that is not publicly-traded and publicly-traded companies do not own, directly or indirectly, more than 25 percent of the producing company; and
- Any television series, relocating television series, or any new television series based on a pilot for a new television series that has been approved and issued a credit allocation by the Commission.

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, 2021.

Federal/State Law

Federal Law

There is no current federal law comparable to the state's film credit.

State Law

Under the motion picture and television production credit in Revenue and Taxation Code (RTC) sections 17053.98 and 23698, the state law allows a credit that is administered by the Commission. This law was enacted in June, 2018 and became operative for taxable years beginning on or after January 1, 2020.

Taxpayers make an irrevocable election to apply the assigned credit against qualified sales and use tax imposed under the Sales and Use Tax provisions. For purposes of this credit, credit certificates must be issued by the Commission for the qualified motion picture, on or after July 1, 2020. The credit is for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

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

The applicable credit percentage is:

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

The applicable credit percentage for the 20 percent category, detailed above, is 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 5 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.

A qualified taxpayer may sell the credit that is attributable to an independent film to an unrelated party.

The Commission annually provides the Legislative Analyst's Office (LAO), the Franchise Tax Board (FTB), and the California Department of Tax and Fee Administration with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the Commission. The list includes the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

Implementation Considerations

None noted.

Technical Considerations

The existing credit is available for taxable years beginning on or after January 1, 2020, but the new provisions added by this bill would be operative for taxable years beginning on or after January 1, 2021. If this is contrary to the author's intent, the author may want to include specific operative date language for clarity.

Phrase in clause (xiii) of subparagraph (A), paragraph (2) subdivision (g) in Sections 17053.98 and 23698 should be amended to correct cross-reference as follows: "This clause shall not apply to an applicant with a production that is an independent film as defined in paragraph (6) of subdivision (b) or to a qualified production described in clause (iii) of subparagraph (D), unless that production is seeking to qualify for the additional credit pursuant to subparagraph (F) of paragraph (4) of subdivision (a)."

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 986 (Gipson, 2021/2022) under the PITL and the CTL, would modify the motion picture production credit by increasing the credit for certain independent minority films, as defined, and increase credits for original photography expenses and wages for independent minority films. This bill is currently pending before the Committee on Arts, Entertainment, Sports, Tourism, and Internet Media.

SB 485 (Portantino, 2021/2022) under the PITL and the CTL, would allow a credit for qualified expenditures for the production of a qualified motion picture in California at a certified studio construction project. This bill is currently pending before the Senate.

SB 871 (Committee on Budget and Fiscal Review, Chapter 54, Statutes of 2018), under the PITL and the CTL, allowed a California motion picture and television production credit/qualified expenditures and wages relating to original photography outside Los Angeles zone.

SB 878 (Committee on Budget and Fiscal Review, Chapter 456, Statutes of 2018), under the PITL and the CTL, modified the LAO's reporting requirement, clarified the Commission's authority to allocate the credit, and appropriated funds to the Commission, as specified.

AB 2936 (Nazarian, 2017/2018) would have extended the motion picture production credit to 2024-2025 fiscal year under the PITL and CTL. AB 2936 did not pass out of the Assembly by the constitutional deadline.

SB 951 (Mitchell and Portantino, 2017/2018), under the PITL and the CTL, would have allowed a credit to a qualified taxpayer for qualified expenditures for the production of a qualified motion picture in California. SB 951 did not pass out of the Senate by the constitutional deadline.

AB 286 (Nazarian, 2015/2016), under the PITL and the CTL, would have modified the Motion Picture Credit. AB 286 did not pass out of the Assembly by the constitutional deadline.

AB 1839 (Gatto, et al., Chapter 413, Statutes of 2014) created the motion picture credit, under the PITL and the CTL, that was available for allocation by the Commission for fiscal years 2015-2016 through 2019-2020, inclusive. Motion picture credits in excess of the tax liability may be carried over for six years, if necessary, until the credit has been exhausted.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill as amended on April 29 and May 11, 2021, does not change the aggregate amount of credit available for allocation by the Commission. However, it may impact the number of applicants that receive a credit allocation but the amount of credit available would not change. As a result, this bill would not change state income or franchise tax revenues.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

The Senate Rules Committee analysis dated May 22, 2021, lists the following support and opposition.

Support: Association of Talent Agents, California IATSE Council, California State Council of Laborers, California Teamsters Public Affairs Council, Catchlight Studios, Crewvie, Entertainment Union Coalition, Hollywood Chamber of Commerce, IATSE Local 695, IATSE Local 729, IATSE Local 80, IATSE Local 871, IATSE Local 16, IATSE Local 44, IATSE Local 600, IATSE Local 705, IATSE local 706, IATSE Local 728, IATSE Local 800, IATSE Local 839, IATSE Local 884, IATSE Local 892, Laborers Local 724, LIUNA Local 724, Motion Picture Association of America, Producers Guild of America, Screen Actors Guild - American Federation of Television and Radio Artists, State Building and Construction Trades Council of California, Teamsters Local 399.

Opposition: No opposition noted.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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