Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 611
Author: Allen (D)
Amended: 5/11/21
Vote: 27

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 5/6/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Income taxes: credits: motion pictures

SOURCE: Author

DIGEST: This bill allows taxpayers additional credit amounts under to the California's Film and Motion Picture Production tax credit program when hiring certain individuals.

ANALYSIS:

Existing law:

1) Allows a credit against the personal income and corporation taxes for taxpayers producing qualified motion pictures, administered and allocated by the California Film Commission (CFC).

2) Allows CFC to allocate $330 million in tax annually for fiscal years 2020-21 to 2024-25.

3) Allows CFC to allocate credits to "qualified motion pictures" which must:

   a) Have 75% of the motion picture shooting days take place in California, or have 75% of the motion production budget incurred for services or the purchase or rental of property within the state;

b) Commence principal photography within 180 days, and finish within 30 months from the date when the application was approved by CFC; and

c) Obtain a copyright from the United States Copyright Office

4) Directs CFC to allocate credits to any of the following productions:

a) A movie of the week or miniseries with a minimum production budget of $500,000.
b) A new television series produced in California with a minimum production budget of $1 million.
c) An independent film, as defined.
d) A television series that relocated to California.

e) A pilot for a new television series longer than 40 minutes of running time exclusive of commercials produced in California with a minimum production budget of $1 million.

5) Allows the credit in an amount equal to 20% or 25% of qualified expenditures for the production of a qualified motion picture in California, with additional credit amounts allowed, including for amounts equal to specific qualified expenditures and qualified wages relating to original photography.

a) 20% of the qualified production expenditures for a feature, or, a television series that relocated to California in its second or subsequent season, or
b) 25% of the qualified expenditures of an independent film, or for the first year that a television series that relocates to California.

6) Defines qualified expenditures as amounts paid or incurred to purchase, or lease, tangible personal property, wages, or services performed in the state, during the motion picture production in California. Qualified expenditures do not include amounts paid to writers, directors, music directors, music composers, music supervisors, producers, or performers, other than background actors.

7) Specifies that the credit is nonrefundable and nontransferable, but taxpayers have three options if they do not have sufficient income tax liability to offset the credit:

a) Taxpayers with credits for independent films may sell the credit to not more than one unrelated party, who cannot subsequently resell it, so long as the taxpayer reports the sale along with specified information to the Franchise Tax Board (FTB).

   b) Taxpayers can elect to apply credits to offset any sales and use tax liability, and obtain either a refund of previously paid taxes or an offset of future ones, according to procedures set forth in statute.
   c) Lastly, corporation taxpayers may assign the credit to one or more affiliates within their unitary groups if the credit exceeds their liability.

8) Defines an application process where applicants file an application to CFC, along with information that includes the motion picture production budget, the number of production days, a financing plan for the production, the diversity of the workforce employed by the applicant, and any other information CFC or FTB deems relevant. Taxpayers must also include the amount of qualified wages the taxpayer expects to pay, the amount of credit the taxpayer computes the production will receive using the appropriate percentages, and a statement establishing that the credit is a significant factor in the applicant's choice of location for the qualified motion picture. The statement must include information regarding whether the qualified motion picture is at risk of not being filmed, or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit, and must be signed by an officer or executive of the applicant.

   a) If approved, CFC issues the applicant a credit allocation letter indicating the amount of credit *reserved*, pending continuing eligibility and final documentation. The applicant must commence principal photography within six months, and finish within 30 months from the date when the application was approved by the CFC.
   b) When the project is complete, the applicant must provide final documentation to CFC necessary to verify the qualified expenditures eligible for the credit and the applicable percentage, plus a copyright certificate. CFC then determines whether the project is still eligible for the credit, and if so, the amount of qualified expenditures, and the applicable credit percentage. State law provides that this amount can be less, but not more, than the one in the credit allocation letter.

9) Provides that, upon completion of its determination, CFC issues the taxpayer a credit certificate, which can be applied beginning that taxable year.

10) Requires applicants to include in their applications the applicant's voluntary programs to increase the representation of minorities and women in certain job classifications, and CFC to annually post on its website and make available for public release specific aggregated diversity-related information collected from an applicant.

This bill:

1) Allows an additional credit for taxpayers awarded the current Film and TV credit, for hiring qualified individuals, equal to 20 percent of the qualified wages paid to those individuals. To qualify, these individuals must be graduates of the Career Pathways Training program, or an equivalent program, approved by CFC.

2) Requires the qualified motion picture to file a workforce development plan with and approved by the California Film Commission, and the qualified motion picture must pay qualified wages to a graduate of the Career Pathways Training program or equivalent program approved by the California Film Commission in at least 60 percent of the departments of the production.

3) Makes conforming changes.

Background

California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around $74.8 billion per year.

In 1985, the Legislature established the California Film Commission (CFC) to coordinate state and local governments' efforts at providing an environment conducive for the film industry. The Governor, the Senate Pro Tempore, and the Speaker of the Assembly appoint CFC's 21 members from the film industry, private sector, and state and local governments.

In 2009, the Legislature enacted a tax credit for qualified motion picture production in California, directing CFC to annually allocate $100 million in credits until the 2012-13 fiscal year, commonly known as "Film and TV Tax Credit 1.0" Both measures directed CFC to allocate two years' worth of credits ($200 million) in 2009-10, so CFC allocated the next year's credits for each fiscal year from 2010-11 onward. For example, when CFC allocated credits in July 1, 2014, the allocation was for credits authorized in FY 2015-16. In 2011, the Legislature extended the program for one year to 2014-15, then extended it for two years until 2016-17. Because the initial bills directed CFC to allocate the next year's credits, CFC last allocated the last $100 million tranche of Film and TV Credit 1.0 on July 1, 2015.

In 2014, the Legislature enacted "Film and TV Tax Credit 2.0," which directed CFC to allocate $230 million in credits in 2015-16, and $330 million in credits each fiscal year through 2019-20; the lower initial amount reflected the $100 million remaining under Film and TV Credit 1.0. The Legislature designed Film and TV Tax Credit 1.0 and 2.0 in very similar ways, but with several key differences in credit mechanics, as well as the application and allocation process.

In 2018, the Legislature enacted the Film and TV Credit 3.0 which authorizes the CFC to allocate $330 million in tax credits each fiscal year from 2020-21 to 2024-25. Additionally, the 3.0 credit allows the credit in an amount equal to 20 percent or 25 percent of qualified expenditures for the production of a qualified motion picture in California, with additional credit amounts allowed, including for amounts equal to specific qualified expenditures and qualified wages relating to original photography, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, this bill will not change the total dollar amount of film tax credits awarded in a fiscal year. However, taxpayers who receive credits could receive larger ones than would have occurred absent the bill, crowding out others from receiving any credit. A cost pressure would result, to increase the amount of annual film tax credits available to award.

FTB's implementation costs have yet to be determined, but would likely be minor and absorbable. CFC would incur minor costs to update regulations and procedures.

SUPPORT: (Verified 5/20/21)

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: (Verified 5/20/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "It is essential that California's entertainment industry lead by example, committing to diversity and inclusion in its workplace. SB 611 builds upon the industry's commitment to train and employ more Californians from underrepresented communities for the skilled jobs that comprise the motion picture and television production industry. Without requiring the expenditure of additional public dollars, it leverages the framework of our state's successful Film and Television Tax Credit Program to incentivize career pathways for individuals from historically disadvantaged communities.

Those who work on movie and TV sets are highly trained and skilled at their craft. They work project to project, with periods of unemployment between jobs. Without both craft and life skills training combined with experience, it is hard to succeed and even harder to establish a career. California Film and Television Tax Credit Program 3.0 created a training and outreach program targeting underrepresented communities in the Los Angeles area, laying the foundation for a programs statewide. Career Pathways provides both life skills and professional craft training for entry level positions in film and television production. It is aimed at attracting new and diverse talent; creating a pathway for a trained workforce to pursue careers in the entertainment industry. Upon successful completion of the training program, participants gain direct entry into the workforce. Similarly, the Directors Guild of America has an Assistant Director Training Program. Jointly sponsored by the DGA and the Alliance of Motion Picture and Television Producers, its provides on-the-job training to for participants to become Second Assistant Directors, with extensive paid, hands-on work experience on actual film and television projects. Trainees who successfully complete all the program's requirements are invited to join the Guild. SB 611 catalyzes motion picture productions to hire graduates from such existing, successful training programs with proven track records providing individuals from historically disadvantaged communities meaningful opportunities to pursue and build a lasting career in the entertainment industry. And it accomplishes this within the framework of the existing Film and Television Tax Credit Program, without spending additional taxpayer dollars."

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****** END ******