

Date of Hearing: July 5, 2021

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION  
Autumn R. Burke, Chairwoman

SB 611 (Allen) – As Amended May 11, 2021

2/3 vote. Tax Levy. Fiscal committee.

**SENATE VOTE:** 39-0

**SUBJECT:** Income taxes: credits: motion pictures

**SUMMARY:** Authorizes, under the California Film and Television (TV) Tax Credit program, additional credits to qualified taxpayers for hiring qualified individuals. Specifically, **this bill:**

- 1) Allows an additional credit equal to 20% of the qualified wages, as defined, paid to qualified individuals by a taxpayer awarded a Film and TV Tax Credit.
- 2) Requires a taxpayer, as a condition of qualification for the additional credit, to hire graduates of the Career Pathways Training Program, or an equivalent program approved by the California Film Commission (CFC), in at least 60% of the departments for that production, as determined by the CFC.
- 3) Requires a taxpayer to submit a workforce development plan with and approved by the CFC, summarizing the qualified taxpayer's voluntary programs to increase representation of individuals from underserved communities.
- 4) Specifies that the requirement related to submission of a workforce development plan shall only apply to independent films and television series, as defined, when seeking an additional credit authorized pursuant to this bill.
- 5) Takes effect immediately as a tax levy.
- 6) Makes conforming changes.

**EXISTING LAW:**

- 1) Establishes the CFC to coordinate state and local governments' efforts to provide a conducive environment 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.
- 2) Authorizes a credit, under the Personal Income Tax (PIT) Law and Corporation Tax (CT) Law that is to be administered by the CFC, on expenditures paid or incurred by a qualified taxpayer for the purchase or lease of tangible personal property or for services performed in the state during the production of a qualified motion picture, including qualified wages paid to qualified individuals, as defined (Revenue and Taxation Code (R&TC) Sections 17053.98 and 23698 *et seq.*).

- 3) Specifies credits shall be calculated in the following manner:
  - a) Twenty percent of up to \$100 million in qualified expenditures of a qualified motion picture, including, but not limited to, a feature or a television series that relocated to California and which is in its second or subsequent years of receiving a Film and TV Tax Credit;
  - b) Twenty-five percent of up to \$100 million in qualified expenditures of a TV series that has relocated to California in its first year of receiving a Film and TV Tax Credit; or,
  - c) Twenty-five percent of up to \$10 million in qualified expenditures of an independent film.
- 4) Authorizes:
  - a) In an aggregate amount not to exceed 5%, for a motion picture that qualifies for the 20% credit, an additional credit of up to 5% on either qualified expenditures related to original photography outside of the Los Angeles Zone, excluding wages paid to specified individuals, or qualified expenditures related to visual effects, as defined;
  - b) For a motion picture that qualifies for the 20% credit, an additional credit of up to 10% on qualified wages paid to qualified individuals for services relating to original photography outside of the Los Angeles Zone, as defined; and,
  - c) For a motion picture that qualifies for the 25% credit, an additional credit of up to 5% on qualified wages paid to qualified individuals for services relating to original photography outside of the Los Angeles Zone.
- 5) Defines a “qualified motion picture” as any of the following with a minimum production budget of \$1 million:
  - a) A feature;
  - b) A miniseries with two or more episodes, as specified;
  - c) A new TV series;
  - d) An independent film that is produced by a company that is not publicly traded and that has 25% or less of its ownership controlled by a publicly traded company;
  - e) A TV series that has relocated to California that had 75% of filming days for the most recent season be outside of California, and for which the qualified taxpayer certifies the credit is the primary reason for relocating to California; or,
  - f) A pilot for a new TV series, as specified.
- 6) Provides that, in order to qualify, a motion picture must:
  - a) Have 75% of the principal photography days occurring in California or 75% of the production budget being incurred for qualified expenses within California;

- b) Upon approval for a credit by the CFC, commence production within 180 or 240 days, as specified, and complete production within 30 months; and,
  - c) Obtain a copyright from the United States Copyright Office.
- 7) Directs the CFC to implement a Career Pathways Training program to fund technical skills training to individuals from underserved communities for entry into film and TV industry jobs, among other requirements (R&TC Sections 17053.98(e)(1)(A) and 23698(3)(1)(A)).
  - 8) Defines a “qualified individual” as any individual who performs services during the production period in an activity related to the production of a qualified motion picture, except in cases where the individual is related to or is a 5% owner in, as defined, the qualified taxpayer (R&TC Sections 17053.98(b)(17)(A) and 23698(b)(17)(A)).
  - 9) Specifies that qualified wages do not include wages paid to writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines, among other expenses (R&TC Sections 17053.98(b)(17)(B) and 23698(b)(17)(B)).
  - 10) Requires, among other provisions, an applicant for the credit to submit a summary of the applicant's voluntary programs that increase the representation of minorities and women in specified job classifications and information on how these programs are publicized to interested parties and exempts an independent film from this requirement (R&TC Sections 17053.98(g)(2)(A)(xiii) and 23698(g)(2)(A)(xiii)).
  - 11) Exempts the Film and TV Tax Credit from the requirements of R&TC Section 41 (R&TC Section 17053.98(k) and 23698(k)).

**FISCAL EFFECT:** The Senate Appropriations Committee in its analysis of this bill notes the following:

This bill would 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 this bill, potentially crowding out others from receiving any credit. A cost pressure could result, to increase the amount of annual film tax credits available to award.

**COMMENTS:**

- 1) The author has provided the following statement in support of this bill:

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 program 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, the program provides on-the-job training to 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.

2) A variety of organizations and associations writing in support of this bill note the following:

SB 611 would incent the creation of more opportunities for employment in the entertainment industry for Californians from historically disadvantaged communities. California's Film and TV Tax Credit program 3.0 established Career Pathways, a training and outreach program targeting underrepresented communities in Los Angeles designed to provide both life skills and professional craft training to prepare new and diverse talent to pursue careers in the entertainment industry. Building upon the success of this program and within the framework of the existing Tax Credit Program, SB 611 would incentivize motion picture productions to hire graduates from Career Pathways and similar programs with proven track records.

3) Committee Staff Comments:

- a) *Tax expenditures*: Existing law provides various credits, deductions, exclusions, and exemptions for specified taxpayers. In the late 1960s, U.S. Treasury officials began arguing that these features of tax law should be referred to as "expenditures," since they are generally enacted to accomplish a governmental purpose and there is a definitive cost associated with each, in the form of forgone revenue.

As the Department of Finance notes in its annual Tax Expenditure Report, there are several important distinctions between tax expenditures and direct expenditures. Tax expenditures are reviewed less frequently than direct expenditures, generally do not facilitate control over the amount of revenue lost, and take a 2/3 vote to rescind if no sunset date is included. These qualities of tax expenditures result in a majority enactment of tax expenditures, but a repeal only with a 2/3 vote, regardless of the efficacy or cost of the tax expenditure.

- b) *Evolution of the California Film and TV Tax Credit program*: The Legislature first established a credit for qualified motion picture productions in California by enacting ABx3 15 (Krekorian), Chapter 10, Statutes of 2009, Third Extraordinary Session, and SBx3 15 (Calderon), Chapter 17, Statutes of 2009, Third Extraordinary Session, commonly referred to as the "Film and Tax Credit 1.0". ABx3 15 and SBx3 15 directed the CFC to annually allocate \$100 million in credits until the 2012-13 fiscal year (FY) and to allocate two years' worth of credits, totaling \$200 million, in the 2009-10 FY. The CFC has subsequently allocated credits two FYs in advance of the credits' authorization. In 2011, the Legislature extended the program for one year to 2014-15 [AB 1069 (Fuentes), Chapter 731, Statutes of 2011], then extended the program for two additional years until 2016-17 [AB 2026 (Fuentes), Chapter 841, Statutes of 2012, and SB 1197 (Calderon), Chapter 840, Statutes of 2012]. The CFC last allocated the final \$100 million authorized under the Film and TV Credit 1.0 on July 1, 2015.

In 2014, the Legislature enacted "Film and TV Tax Credit 2.0," which directed the CFC to allocate \$230 million in credits in the 2015-16 FY, and \$330 million in credits each FY through 2019-20 [AB 1839 (Gatto), Chapter 413, Statutes 2014]. The lower amount for the initial allocation reflected the \$100 million yet to be allocated pursuant to the Film and TV Tax Credit 1.0.

The Legislature structured the two iterations of the credit similarly, but made several important alterations to the mechanics of the credit by authorizing credit uplifts for productions qualifying for the 20% credit for qualified expenditures related to filming outside the LA zone, as defined, music scoring and music track recording, and visual effects expenditures, where at least 75% or \$10 million is expended in California.

In 2018, the Legislature enacted the Film and TV Tax Credit 3.0, authorizing the CFC to allocate \$330 million in credits each FY through 2024-25 [SB 871 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2018]. SB 871 allowed a credit equal to 20% or 25% of qualified expenditures for production of a qualified motion picture in California, with additional credits for qualified expenditures related to original photography, as defined. Additionally, SB 871 required applicants to submit a summary of their voluntary programs designed to increase the representation of minorities and women in certain job classifications and directed the CFC to establish the Career Pathways Training program, among other provisions.

- c) *This bill*: This bill would allow additional credits up to 20% of the amount paid in qualified wages to individuals who are graduates of the Career Pathways Training program, or an equivalent training program authorized by the CFC, in at least 60% of the departments for the production. This bill would further require applicants to the Film and TV Tax Credit to submit a workforce development plan, as specified. Independent films and TV series would be exempt from submitting a workforce development plan, unless they are seeking the additional credits authorized pursuant to this bill.

Currently, applicants are required only to report on specified programs related to increasing representation of specified individuals in certain job classifications. This bill would alter the means of promoting diversity by changing the reporting requirement to a tax-based incentive.

This bill would not allocate any additional funding to the program, while authorizing an expansion of expenditures that qualify for the credit. Without additional funding, there is a likelihood that some claimants will receive larger credits, thereby potentially decreasing the availability of the credit for some claimants.

d) *Related legislation:*

- i) AB 986 (Gipson), under the PIT Law and the CT Law, 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. AB 986 is currently pending hearing by the Committee on Arts, Entertainment, Sports, Tourism, and Internet Media.
- ii) SB 485 (Portantino), under the PIT Law and the CT Law, would allow a credit for qualified expenditures for the production of a qualified motion picture in California at a certified studio construction project. SB 485 is currently on the Senate Inactive File.

e) *Prior legislation*

- i) SB 871 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2018, under the PIT Law and the CT Law, authorized the Film and TV Tax Credit 3.0 program.
- ii) AB 1839 (Gatto, et al.), Chapter 413, Statutes of 2014, authorized the motion picture credit, under the PIT Law and the CT Law authorized the Film and TV Tax Credit 2.0 program.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Iatse Council  
 California Labor Federation, AFL-CIO  
 California State Council of Laborers  
 California Teamsters Public Affairs Council  
 Entertainment Union Coalition  
 Hollywood Chamber of Commerce  
 Iatse Local 16  
 Iatse Local 44  
 Iatse Local 80  
 Iatse Local 600  
 Iatse Local 695  
 Iatse Local 705  
 Iatse Local 706  
 Iatse Local 728  
 Iatse Local 729  
 Iatse Local 800  
 Iatse Local 839  
 Iatse Local 871

Iatse Local 884  
Iatse Local 892  
Liuna Local 724  
Motion Picture Association  
SAG-AFTRA  
Teamsters Local 399  
Writers Guild of America West

**Opposition**

None on file

**Analysis Prepared by:** Harrison Bowlby / REV. & TAX. / (916) 319-2098