Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 1138 (Zbur) – As Amended April 22, 2025

2/3 vote. Fiscal committee.

SUBJECT: Income and corporate taxes: tax credits: motion pictures

SUMMARY: Expands and modifies the state's tax incentive programs for the film and television industry. Specifically, **this bill**:

1) Modifies the state's certified studio construction project credit as follows:

   a) Provides that, for taxable years beginning on or after January 1, 2025, a "qualified motion picture" shall include:

      i) A live action or animated series, averaging across a season at least 20 minutes of running time per episode, exclusive of commercials, that is produced in California, with a minimum production budget of $1 million per episode;

      ii) An animated film that is produced in California, with a minimum production budget of $1 million; and,

      iii) A large-scale competition show, not including traditional reality, talk shows, or docufollow television programing, that is produced in California, with a minimum production budget of $1 million per episode.

   b) Provides that, for credits allocated on or after July 1, 2025, the applicable credit percentages shall be increased from 20% and 25% to 35% and 40%, as specified.

   c) Eliminates, for taxable years beginning after January 1, 2025, the requirement for the qualified motion picture to be produced by a qualified taxpayer that is either of the following:

      i) More than 50% owned, directly or indirectly, by the same owner or owners of the soundstage or soundstages that is part of a certified studio construction project on which the production is filmed; or,

      ii) Entered into a contract or lease of 10 years or more with the owner or owners of a certified studio construction project on which the production is filmed.

   d) Provides that, for taxable years beginning on or after January 1, 2025, the amount of credit that may be allocated to a qualified motion picture shall not exceed the greater of ___ dollars, or ___ dollars per episode, for a season of a television series.

2) Modifies the state's Motion Picture Credit 4.0 as follows:

a) Increases the applicable credit percentages from 20 and 25% to 35 and 40%, as specified.

b) Increases the qualified expenditure cap for independent films from $10 million to $20 million.

c) Provides that a "new television series" includes a television series that has not previously received an allocation, and that completed principal photography of the previous season more than 48 months prior to their application for a tax credit allocation.

d) Provides that a "qualified motion picture" shall include:

   i) A live action or animated series, averaging across a season at least 20 minutes of running time per episode, exclusive of commercials, that is produced in California, with a minimum production budget of $1 million per episode;

   ii) An animated film that is produced in California, with a minimum production budget of $1 million; and,

   iii) A large-scale competition show, not including traditional reality, talk shows, or docufollow television programing, that is produced in California, with a minimum production budget of $1 million per episode.

e) Requires the California Film Commission to allocate tax credits in four or more allocation periods per fiscal year (FY), instead of two or more.

f) Provides that a recurring television series that does not request a credit allocation within 18 months from the date of completion of principal photography of the previous season is deemed to have waived the credit allocation guarantee and must reapply for a credit allocation. The California Film Commission may by regulation determine the appropriate priority to be given in a reapplication process for a recurring series reapplying pursuant to this bill.

g) Increases the aggregate amount of credits that may be allocated per FY from $330 million to $750 million.

h) Provides that the California Film Commission shall have discretion to reallocate up to 10% of the funds within any category amongst the remaining categories to maximize the amount of total credits allocated.

i) Modifies the allocation percentages as follows:

   i) Independent films with qualified expenditures of $10 million or less shall be allocated 5% of the total, instead of 4.8%;

   ii) Independent films with qualified expenditures in excess of $10 million shall be allocated 5% of the total, instead of 3.2%; and,

   iii) Relocating television series shall be allocated 15% of the total, instead of 17%.

j) Provides that, for taxpayers electing to receive a credit refund, the "total refundable amount" shall mean 100%, instead of 90%, of the credit amount that exceeds the taxpayer's tax liability in the first taxable year of the refundable period.

3) Provides that, for taxable years beginning on or after January 1, 2025, the California Film Commission shall limit the amount of credits any recurring television series receives in a subsequent season to no more than the "recurring television allocation amount", instead of the amount reserved in its prior FY Credit Allocation Letter or Letters.

4) Defines "recurring television allocation amount" as the sum of the "base year allocation" and the product of all of the following:

   a) The "base year allocation";

   b) "The number of subsequent years"; and,

   c) 3%.

5) Defines "base year allocation" as the amount received by the recurring television series in its FY 2025-26 Credit Allocation Letter or Letters, or if no amounts were reserved in FY 2025-26, in the next FY in which a Credit Allocation Letter or Letters were received.

6) Defines "the number of subsequent years" as the number of full or partial FYs that have elapsed since the FY in which the base year allocation was made.

EXISTING LAW:

1) Allows various tax credits under both the Personal Income Tax Law and the Corporation Tax Law. These credits are generally designed to encourage socially beneficial behavior or to provide relief to taxpayers that incur specified expenses. (Revenue &Taxation Code (R&TC) Sections 17041 *et seq*. and 23608 *et seq*.)

2) Requires any bill authorizing a new credit to contain all of the following:

   a) Specific goals, purposes, and objectives that the tax credit will achieve;

   b) Detailed performance indicators for the Legislature to use when measuring whether the tax credit meets the goals, purposes, and objectives stated in the bill; and,

   c) Data collection requirements to enable the Legislature to determine whether the tax credit is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. The requirements shall include the specific data and baseline measurements to be collected and remitted in each year the credit is in effect, for the Legislature to measure the change in performance indicators, and the specific taxpayers, state agencies, or other entities required to collect and remit data. (R&TC Section 41.)

3) Allows a credit to a "qualified taxpayer" equal to 20% or 25%, as applicable, of "qualified expenditures" for the production of a "qualified motion picture" in California. (R&TC Sections 17053.98.1(a)(1) and 23698.1(a)(1).)

4) Defines a "qualified taxpayer" as a taxpayer who has:

a) Paid or incurred "qualified expenditures";

b) Participated in the Career Readiness requirement; and,

c) Been issued a credit certificate by the California Film Commission. (R&TC Sections 17053.98.1(b)(20) and 23698.1(b)(20).)

5) Defines "qualified expenditures" as amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a "qualified motion picture" and payments, including "qualified wages", for services performed within this state in the production of a "qualified motion picture". (R&TC Sections 17053.98.1(b)(17) and 23698.1(b)(17).)

6) Defines a "qualified motion picture" as a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

a) A feature with a minimum production budget of $1 million;

b) A miniseries or limited series consisting of two or more episodes, each longer than 40 minutes of running time, exclusive of commercials, that is produced in California, with a minimum production budget of $1 million per episode;

c) A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of $1 million per episode;

d) An independent film;

e) A television series that relocated to California; or,

f) A pilot for a new television series that is longer than 40 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of $1 million. (R&TC Sections 17053.98.1(b)(19)(A) and 23698.1(b)(19)(A).)

7) Specifies that, to qualify as a "qualified motion picture" all of the following conditions must be satisfied:

a) At least 75% of the principal photography days occur wholly in California or 75% of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state;

b) Production of the qualified motion picture is completed within 30 months of the date on which the qualified taxpayer's application is approved by the California Film Commission;

c) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code;

d) Principal photography of the qualified motion picture begins after the date on which the application is approved by the California Film Commission, as specified;

e) If applicable, at least 75% of production costs for picture editing and postproduction sound labor and services are incurred in California; and,

f) Provides a diversity workplan checklist. (R&TC Sections 17053.98.1(b)(19)(B) and 23698.1(b)(19)(B).)

8) Defines "qualified wages" to mean all of the following:

a) Any wages subject to withholding under Unemployment Insurance Code Section 13000 *et seq.* that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a "qualified individual" for services performed on the qualified motion picture production within this state;

b) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts, as specified;

c) Any payments made to a "qualified entity" for services performed in this state by "qualified individuals", as specified; and,

d) Remuneration paid to an independent contractor who is a "qualified individual" for services performed within this state by that "qualified individual". (R&TC Sections 17053.98.1(b)(22)(A) and 23698.1(b)(22)(A).)

9) Excludes certain expenses from the definition of "qualified wages", including expenses paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines. (R&TC Sections 17053.98.1(b)(22)(B) and 23698.1(b)(22)(B).)

10) Defines a "qualified individual" as any individual, except as specified, who performs services during the production period in an activity related to the production of a qualified motion picture. (R&TC Sections 17053.98.1(b)(18) and 23698.1(b)(18).)

11) Defines a "qualified entity" as a personal service corporation as defined in Internal Revenue Code Section 269A(b)(1), a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual. (R&TC Sections 17053.98.1(b)(16) and 23698.1(b)(16).)

12) Species that, except as otherwise provided, the credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate for the qualified motion picture and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture. (R&TC Sections 17053.98.1(a)(2) and 23698.1(a)(2).)

13) Provides that the amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission. (R&TC Sections 17053.98.1(a)(3)(A) and 23698.1(a)(3)(A).)

14) Provides that the applicable credit percentage shall be:

a) 20% of the qualified expenditures attributable to the production of a qualified motion picture in California, including a feature or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation;

b) 25% 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 a tax credit allocation; and,

c) 25% of the qualified expenditures attributable to the production of a qualified motion picture that is an independent film. (R&TC Sections 17053.98.1(a)(4) and 23698.1(a)(4).)

15) Allows additional credits for the production of a qualified motion picture whose applicable credit percentage is 20%, in an aggregate amount not to exceed 5% of the qualified expenditures, as follows:

a) 5% of qualified expenditures, as specified, relating to original photography outside the Los Angeles zone, as defined; and,

b) 5% of the qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California. (R&TC Sections 17053.98.1(a)(4)(D) and 23698.1(a)(4)(D).)

16) Authorizes a qualified taxpayer to sell any credit that is attributable to an independent film to an unrelated party. (R&TC Sections 17053.98.1(c) and 23698.1(c)(2).)

17) Provides that in cases where the credit amount exceeds the taxpayer's tax liability, the excess credit amount may be carried over to reduce the taxpayer's tax liability in the following taxable year, and succeeding eight taxable years, if necessary, until the credit has been exhausted. (R&TC Sections 17053.98.1(c)(3) and 23698.1(c)(4).)

18) Requires the California Film Commission to do the following:

a) On or after July 1, 2025, and before July 1, 2030, in two or more allocation periods per FY, allocate tax credits to applicants;

b) Establish a procedure for applicants to file with the California Film Commission a written application for the allocation of the tax credit. The application must include numerous items of information including the budget for the motion picture production, the number of production days, a financing plan, the diversity of the workforce employed by the applicant, the amount of qualified wages the applicant expects to pay to qualified individuals, and a statement establishing that the tax credit is a significant factor in the applicant's choice of location;

c) For each allocation date and for each category, list each applicant from highest to lowest according to a jobs ratio computed by the California Film Commission;

d) Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted; and,

   e) Certify tax credits allocated to qualified taxpayers. (R&TC Sections 17053.98.1(g) and 23698.1(g).)

19) Caps the aggregate amount of credits that may be allocated per FY, except as provided, to $330 million for FY 2025-26 and each FY thereafter, through and including FY 2029-30, as specified. (R&TC Sections 17053.98.1(h)(3) and 23698.1(h)(3).)

20) Requires the California Film Commission to allocate the credit amounts subject to the following categories:

   a) Independent films with qualified expenditures of $10 million or less shall be allocated 4.8% of the total. Independent films with qualified expenditures in excess of $10 million shall be allocated 3.2% of the total. These amounts shall be in addition to any unused allocation credit amount, if any, for the preceding FY, as specified;

   b) Features shall be allocated 35% of the total;

   c) Relocating television series shall be allocated 17% of the total; and,

   d) A new television series, pilots for a new television series, miniseries, and recurring television series shall be allocated 40% of the total, plus any unused allocation credit amount, if any, for the preceding FY, as specified. (R&TC Sections 17053.98.1 and 23698.1.)

21) Allows a credit for taxable years beginning on or after January 1, 2022, and before January 1, 2032, in an amount equal to 20% or 25% of qualified expenditures for the production of a qualified motion picture produced in the state at a certified studio construction project. (R&TC Section 17053.98(k).)

FISCAL EFFECT: The Franchise Tax Board estimates that this bill would reduce General Fund revenues by $20 million in FY 2025-26, by $85 million in FY 2026-27, and by $170 million in FY 2027-28.

COMMENTS:

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

> California's iconic film and television production industry is in crisis. As more states and countries are competing aggressively for film and television production, California has seen an unprecedented drop in jobs that is resulting in extreme hardship for the workers and small businesses in our signature industry.
>
> Since it was first established by the State Legislature in 2009, California's Film & Television Tax Credit Program has generated over $26 billion in economic activity, helped create nearly 200,000 jobs, and more than paid for itself in tax revenue generation. Every dollar allocated by the program generates $1.07 in direct state and local tax revenues and creates at least $24.40 in economic output, according to a study by the Los Angeles County Economic Development Corporation.

The loss of production and economic output harms the hard-working cast and crew members who struggle to find work and the small businesses that support the industry. Many workers report being out of work for 6 months, 12 months and even longer. According to reports on contributions to the Motion Picture Pension Plan, the decline in production in California has led to an estimated 30% drop in union jobs since 2022. Due to a lack of employment opportunities, many workers are forced to travel to other states to work or must consider changing fields.

AB 1138 will address this crisis by strengthening and modernizing the Film and TV Tax Credit Program. This bill increases the base tax credit rate to be more competitive with other jurisdictions, expands eligibility for a broader range of types of production, enhances the program for independent films, and addresses administrative and other barriers. These enhancements seek to retain and expand entertainment industry jobs, boost small businesses that support production, and reinforce California's status as the global leader in creativity and innovation.

2) This bill is supported by the Motion Picture Editors Guild, which notes the following:

For over a century, California has been the motion picture capitol of the World – home to the most advanced production infrastructure anywhere. It has boasted more soundstages per capita, more industry-related small businesses and the best and most qualified talent and crew. It has fueled middle-class jobs with health and pension benefits, supported thousands of statewide businesses, driven tourism (to the tune of $51 billion in visitor spending over the last 10 years) and contributed to California's status as the world's fifth largest economy. It is an industry that is worth fighting to keep.

Between 2022-2024, the Motion Picture Industry Pension & Health Plans – the benefit plan for crew members – reported a loss of 35 million work hours – the equivalent of 17,000 jobs. Unemployment levels are approaching 50%. Just two weeks ago, a FilmLA report revealed that soundstage occupancy, historically around 90%, has fallen to 63%, the lowest ever recorded. And when there is little production in Los Angeles, it is even worse across the rest of the state. The people being squeezed the most are the crew who are no longer asked to travel to other locations when productions go away.

The funding for the California Film & Television Jobs Program has not changed since 2014. Meanwhile, far smaller states outpace us, and globalization threatens to decimate what is left of the California industry. The structure of the program also has not changed much since 2014, but our industry has radically changed in every way imaginable. Other places have incentives that evolved with the times, while California's program – even with all of the state's built in advantages – continues to try, but fails to compete.

3) Committee Staff Comments:

a) *The motion picture industry in California*: The motion picture business is, in many respects, a quintessential California industry. The state's film production workforce is by far the largest in the United States, and over 2.5 times the size of its nearest competitor (New York). The industry, however, is heavily concentrated in Southern California, with the vast majority of these California jobs located in Los Angeles County alone.

Despite its historical ties to California, the motion picture industry is inherently mobile, and has become increasingly so with the advent of advanced technology. As such, a number of other states (and foreign governments) have established public subsidies to attract film productions. States have done so in the hopes of developing a regional industry and stimulating film-related tourism. Louisiana was the first state to adopt tax incentives for film and television production in 1992. (National Conference of State Legislatures, *State Film Production Incentives and Programs*, February 5, 2018.) Ten years later, Louisiana expanded its program and the state's film industry began to experience significant growth. (*Id*.) By 2009, 44 states, along with Puerto Rico and Washington D.C., offered incentives for film and television productions.[1] (*Id*.) While filmmakers obviously consider a host of factors in deciding where to shoot, the program would appear that the availability of financial incentives plays a role in many site selection decisions.

b) *California's first film tax credit program*: Responding to the proliferation of financial incentives offered by other states, California adopted its first film and television production tax credit program in 2009. [SBx3 15 (Calderon), Chapter 17, Statutes of 2009, Third Extraordinary Session, and ABx3 15, (Krekorian), Chapter 10, Statutes of 2009, Third Extraordinary Session.] Originally, the program was scheduled to sunset after FY 2013-14, but was extended by the Legislature in 2011 for one additional year – through FY 2014-15. [AB 1069 (Fuentes), Chapter 731, Statutes of 2011.] In 2012, the program was further extended for two additional years – through FY 2016-17. [AB 2026 (Fuentes), Chapter 841, Statutes of 2012.]

Between FYs 2009-10 and 2016-17, this program provided $100 million per year, for a total of up to $800 million in tax credits. For most projects, the individual credit amount was equal to 20% of qualified expenditures. Television series relocating to California from other jurisdictions and independent film productions qualified for a more generous 25% credit.

Demand for the original tax credit exceeded the $100 million available in every year of the program's existence. The California Film Commission, which was charged with administering the program, accepted applications on a first-come, first-served basis. After the program's first year, however, most applications were submitted on the first day of each application period. As a result, the California Film Commission used a random selection process – often referred to as a "lottery" – to determine the order in which applications received on the same day would be processed.

c) *The Legislative Analyst's Office weighs in on the first generation credit*: AB 2026 (Fuentes), Chapter 841, Statutes of 2012, required the Legislative Analyst's Office (LAO) to prepare a report on the film tax credit, focusing specifically on the program's administration and economic effects. The LAO report was published in September 2016, and contained a number of important findings.

The LAO estimated that, overall, the $800 million in tax credits offered under the original program could be tied to production expenses of roughly $6.1 billion in California over

[1] The popularity of these programs has decreased in recent years. In 2018, only 31 states, Washington D.C., Puerto Rico, and the U.S. Virgin Islands continued to maintain film incentive programs.

the entire life of the program. The LAO, however, made several adjustments to this $6.1 billion estimate to determine roughly how much represented new spending resulting from the tax credit and how much would have occurred in California regardless of whether or not the tax credit program existed:

i) *California writing and editing (reduction of $0.5 billion)*: The LAO report noted that film and television productions all over the world obtain various specialized goods and services from California companies. In addition, many film and television scriptwriters live in California and rarely need to travel to the actual production site. Finally, when a film is shot on location in another state, some or all of the post-production work may be done in California. As such, the LAO made the rough estimate that about $0.5 billion in total production spending by projects that received a tax credit (i.e., about 8% of total production spending) might have occurred in California even had those projects filmed elsewhere. For this reason, the LAO did not consider this to be new spending in the state's economy resulting from the tax credit program.

ii) *Windfall tax benefits (reduction of $1.5 billion)*: The LAO report notes that some projects receiving a film tax credit would have been made in California even without a financial subsidy. In such cases, the credit essentially operates as a "windfall" benefit. Windfall benefits occur with most, if not all, tax credit programs, but are generally difficult to quantify. The LAO's modeling estimated that, overall, roughly one-third of the projects receiving a tax credit would have been made in California even had they not been allocated a credit. As such, the LAO estimated that roughly $1.5 billion of the total estimated production spending represented windfall benefits and not new spending on film production.

iii) *Projects receiving tax credits more likely to be made (addition of $0.4 billion)*: According to the LAO, it appears that receiving a tax credit allocation could have had a small but discernable effect on whether or not a project was completed at all. Specifically, the LAO estimated that if the California Film Commission allocated a credit, the project was about 5% more likely to be completed, compared to projects that were initially placed on a waitlist. This, in turn, increased the estimate of total spending in California resulting from the first tax credit program by roughly $0.4 billion.

After accounting for the adjustments described above, the LAO estimated that roughly $4.5 billion of the $6.1 billion in total production spending by tax credit recipients was additional spending in the state's economy attributable to the film tax credit program.

The LAO also noted that in addition to new *direct* spending in the state's economy, the film tax credit program also resulted in indirect and induced economic effects. Specifically, new film and television production spending supported additional economic activity throughout California. For example, film industry workers hired on these productions likely spent some of their income to purchase additional goods and services from California businesses. Additionally, businesses that supplied these productions may have been able to expand their operations. The LAO went on to note:

> The economic ripple effects from the initial increase in new production spending are called indirect economic effects. These indirect economic effects also subsequently

induced additional effects in the state's economy. For example, when a new employee is hired by a business that supports film productions, that individual will then spend some of his or her income to buy more household goods and services than they would have otherwise.

The LAO concluded its general economic analysis, however, by noting that all actions have opportunity costs. As such, the LAO noted that any economic analysis of the film tax credit must also account for two types of opportunity costs: (i) the $800 million in foregone state tax revenue that the government would have used for other purposes; and, (ii) the fact that the billions of dollars in new motion picture production spending used some workers and materials that other industries would have otherwise used. With respect to the first category of opportunity costs, the LAO found that "[t]hese opportunity costs are unknown and reduce, perhaps significantly, the net economic effect of the first film tax credit program." The LAO concluded as follows:

> [W]e believe that the first film tax credit program increased spending on motion picture production by roughly $4.5 billion. Indirect and induced economic effects further increased economic activity here by an additional amount, perhaps roughly equal to the new direct motion picture production spending. However, economic opportunity costs likely offset the increased economic activity significantly.

d) *The Film Tax Credit 2.0*: AB 1839 (Gatto), Chapter 413, Statutes of 2014, replaced the original film tax credit with an expanded credit program, referred to by many as the "Film Tax Credit 2.0". The new program allocated up to $330 million annually through FY 2019-20, and authorized a wider range of film and television projects to apply for the program.

   The Film Tax Credit 2.0 was designed, in part, to improve some of the perceived issues with the first program. As noted above, under the first tax credit program, most credits were allocated randomly rather than on the basis of objective criteria. Instead of allocating credits on a first-come, first-served basis, the Film Tax Credit 2.0 program used a "jobs ratio" score and allocated credits to the highest scoring applications.

e) *The LAO's 2019 update*: In 2019, the LAO issued a second article evaluating the film tax credit. (*An Update on California's Film Tax Credit Programs*, Legislative Analyst's Office.) This report highlighted some of the key differences between the first- and second-generation credits. In addition, this report made reference to new research calling into question the cost-effectiveness of film incentive programs. Specifically, the LAO noted:

> Since our last report, other independent researchers have studied the effectiveness of public subsidies for film and television production. (See Patrick Button and Michael Thom.) They found that incentives do not help states establish a new local film industry or create lasting economic development. Like our research, these studies confirm production is mobile, susceptible to influence by financial incentives, and that film production subsidies provide some tangible benefits. However, these studies have all concluded that the benefits are small relative to the subsidies' cost. A notable new finding in this research is that changes in the number of motion picture industry jobs – increases and decreases – are not affected by the existence of a tax incentive in that state or in other states. When the number of jobs in states with an incentive

increased, jobs also increased in some states that did not have an active incentive program – such as Florida and Nevada. This suggests that incentives have less effect on film industry jobs than other factors – discussed in our first report – such as the growth of the U.S. economy and technological changes.

f) *The Film Tax Credit 3.0*: In 2018, the Legislature and Governor extended the film tax credit program as part of the 2018 Budget Package. Specifically, SB 871 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2018, established similar credits for the California Film Commission to allocate on or after July 1, 2020, and before July 1, 2025. Among other things, SB 871 required credit applicants to include in the application the applicant's written policy against unlawful harassment and a summary of the applicant's voluntary programs to increase the representation of minorities and women in certain job classifications, as specified.

g) *SB 144 (Portantino)*: In 2021, the Legislature and Governor enacted additional modifications to the film tax credit program. Among other things, SB 144 (Portantino), Chapter 114, Statutes of 2021, did the following:

   i) Required a qualified taxpayer to provide additional information, including data regarding the diversity of the applicant's workforce, to be eligible for the credit;

   ii) Required an applicant with a production that is an independent film to include, in its application, a summary of the applicant's voluntary programs to increase the representation of minorities and women in specified job classifications;

   iii) Increased the aggregate amount of credits that may be allocated for FYs 2021-22 and 2022-23 by $15 million, making these amounts exclusively available to television series that relocate to California, as defined;

   iv) Increased the aggregate amount of credits that may be allocated for FYs 2021-22 and 2022-23 by $75 million, making these amounts exclusively available to recurring television series, as defined; and,

   v) Allowed, for taxable years beginning on or after January 1, 2022, and before January 1, 2032, a credit for the production of a qualified motion picture in this state at a certified studio construction project.

h) *The Film Tax Credit 4.0*: In 2023, the Legislature and Governor enacted SB 132 (Committee on Budget and Fiscal Review), Chapter 56, Statutes of 2023, which enacted the Film Tax Credit 4.0. Specifically, SB 132 authorized a new film tax credit program for taxable years beginning on or after January 1, 2025, to be allocated by the California Film Commission on or after July 1, 2025 and before July 1, 2030. Importantly, this bill also authorized the state's first refundable credit for business taxpayers. As such, the bill allowed taxpayers without tax liability to make a one-time election to be paid a refund, spread out over a five-year period, of the "total refundable amount", defined as 90% of the credit amount exceeding the taxpayer's tax liability in the first taxable year of the refundable period. Put simply, this budget agreement authorized the very first refundable business credit but conditioned the credit on the taxpayer accepting a 10% "haircut" of the credit amount.

i) *The Governor's Budget proposal*: In January of this year, the Governor released his budget outline, which included a proposal to increase the Film Tax Credit 4.0 allocations from $330 million per year to $750 million per year from FY 2025-26 to FY 2029-30. The Governor's budget proposal did not, however, include any programmatic changes to the tax credit. In advancing this proposal, the Governor's office noted the following:

> California faces strong competition for film productions as 37 other states and many other countries offer various tax incentives to attract productions. The demand for California's film tax credits are consistently high, with more than two-thirds of applicants being rejected in most years.
>
> The film industry is highly mobile, with jurisdictions worldwide competing to attract productions by offering generous tax incentives. This trend has continued since the last time California increased the size of its credit in 2014, leaving California's program small relative to most other major jurisdictions for filmmaking. Major competitors like Georgia, the United Kingdom, Australia, and Canada offer programs with significant advantages over California's program, including no yearly cap on total awards, a higher (or no) cap on individual award amounts, and higher credit percentages per dollar of qualified expenditure. As a result, California's relative ability to retain television and film productions has declined since the last expansion of the program in 2014.

j) *The LAO weighs in (yes, again)*: In February of this year, the LAO weighed in with its most recent assessment of the state's film tax incentives and the Governor's budget proposal to expand the annual credit cap. Among other things, this report noted the following:

   i) Recent disruptions, including COVID-19, the 2023 labor strikes, and the 2025 Los Angeles wildfires have depressed production activity. While the COVID-19 impact proved to be short-lived, filming activity following the strikes has shown no signs of recovering so far, with shoot days slightly declining further in 2024;

   ii) Since 2010, California's share of domestic film industry employment has decreased from over 54% to 46% as of 2023, becoming particularly volatile over the past few years;

   iii) While the film tax credit program likely increases the size of California's film industry, there is weak evidence that expanding the program would benefit California's economy as a whole. More specifically, tax incentives typically never "pay for themselves". To this end, the report noted:

   > Film tax credits generally have a negative overall effect on state revenues. Evidence from academic research and state evaluations in places such as Georgia and New York find that every $1 of credit allocated returns significantly less than $1 in state revenue. One notable outlier to this pattern is a report from the Los Angeles County Economic Development Corporation, who claim to find a small fiscal benefit associated with the film tax credit. The Los Angeles County Economic Development Corporation estimates, however, very likely are overstated. These estimates ignore some of the important offsetting factors discussed above, specifically that some productions receiving the credit would

have filmed here anyway and revenues lost to the film tax credit could have been used to fund other economically beneficial programs.

k) *What would this bill do*? This bill, like the Governor's proposal, would increase the aggregate amount of credits available for allocation per FY from $330 million to $750 million. Beyond this, however, this bill proposes a wide range of programmatic changes designed to make the credit more generous and widely available. Among other things, this bill increases the applicable credit percentages from 20% and 25% to 35% and 40%, increases the qualified expenditure cap for independent films from $10 to $20 million, and adds new project categories such as live action or animated series to the types of motion pictures qualifying for the credit. This bill also provides a more generous allocation methodology for recurring television series, ostensibly in recognition of increasing production costs over time. Finally, this bill undoes the budgetary action to provide a 10% credit reduction for taxpayers electing to receive a refundable credit because they have no income or sales tax liability to offset. By eliminating this "haircut", this bill would allow such taxpayers to claim the full amount of the credit over a five-year period. On this last point, the Committee may wish to consider the precedent this may set for other taxpayers outside the film industry wishing to monetize tax expenditure programs given their lack of tax liability.

l) *Is this good public policy*? Some critics question the wisdom of enacting industry-specific tax benefits, which tend to pit state against state and encourage a proverbial "race to the bottom". For this reason, the LAO has generally argued that such industry-specific inducements represent poor tax policy. That said, the LAO has also acknowledged that California's adoption of a film tax credit was understandable in light of the actions taken by other states to lure productions away from Hollywood. In addition, the program contains many provisions to guard against some of the pitfalls that attend other tax expenditure programs. Unlike most other credits, the film tax credit program is capped annually, allowing the Legislature to weigh the program against other budgetary priorities and determine the state's maximum financial exposure. The credit is also allocated on a competitive basis by the California Film Commission which, by most accounts, has done a very good job administering the program. In the end, the question is whether this bill's significant credit augmentation will prove sufficient to shore up California's film industry for the medium to long term or whether the state will, in short order, be called upon to provide even more generous incentives in response to the actions of other competing states and nations over which California has no control.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of Musicians Local 47
Art Directors Guild, IATSE Local 800
California IATSE Council
Cold Iron Pictures
COSM Films
Costume Designers Guild, IATSE Local 892
Directors Guild of America
Entertainment Union Coalition

IATSE Local 16
IATSE Local 44
IATSE Local 80
IATSE Local 119
IATSE Local 122
IATSE Local 600
IATSE Local 695
IATSE Local 705
IATSE Local 706
IATSE Local 728
IATSE Local 729
IATSE Local 839
IATSE Local 871
IATSE Local 884
Motion Picture Association
Motion Picture Editors Guild, IATSE Local 700
Netflix
Paramount Global
San Diego Regional Chamber of Commerce
Sony Pictures Entertainment
Walt Disney Company
Warner Bros. Discovery
Writers Guild of America West

Opposition

None on file

Analysis Prepared by: M. David Ruff / REV. & TAX. / (916) 319-2098