BILL ANALYSIS

C.S.H.B. 2954
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Culture, Recreation, & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

After building its film production industry over the past 20 years, and gaining international recognition as a leader in on-location filming, Texas is now in danger of losing its film industry to more hospitable business climates.

In the early 1990s, Canada's federal and provincial governments began an effort to attract on-location filming by offering financial incentives, in the form of tax credits. Responding to the success of Canada's programs, U.S. states slowly began to follow suit, offering rebates or tax credits based on in-state spending. Now, incentive programs have changed the way that location decisions are made. Thirteen U.S. states (Louisiana, New Mexico, Oklahoma, Florida, South Carolina, New York, Illinois, Hawaii, Utah, Mississippi, Missouri, Minnesota and Pennsylvania), and every Canadian province, have such programs in place. Film incentive legislation is pending in California, North Carolina, Georgia and Montana. For years, Texas top competitors have been California, New York, Florida, Illinois and North Carolina, each with strong film infrastructures of their own. Without a financial incentive to help level the playing field, Texas is at a great disadvantage.

Three years ago, neither New Mexico nor Louisiana was a serious competitor to Texas' film production industry. Two years ago, both states implemented incentive programs, and both have increased incoming film dollars by ten times or more. In many cases, this business would have come to Texas.

- The Texas Film Commission reports a 25% decrease in leads in 2004.
- Of new projects scheduled to film outside California and New York, 14% chose Louisiana; Texas' share was less than one per cent. [*Production Weekly*, June 24, 2004]
- In 2004, the Texas Film Commission tracked 11 film and television projects that researched locations in Dallas, El Paso, Houston, San Antonio, west Texas and Austin, but instead selected a site with incentives. Those 11 films represent:
  - $117.8 million in total budgets
  - $58.9 million in direct local spending
  - $124.9 million in economic impact
  - 1,320 direct jobs
  - 2,640 indirect jobs

Without a financial incentive, Texas is behind the curve. On-location filmmaking is by nature a mobile business, and Texas' resident film crew is made up of freelancers, completing one film and beginning work on another. Facing dwindling opportunities at home, Texans are taking work in Louisiana and New Mexico, Texas-based film equipment is being shipped out-of-state, and Texas' film-specific support businesses are being wooed to relocate.

CSHB2954 seeks to create a financial incentive program to allow Texas to effectively compete with other film destinations; to increase employment for Texans; to protect an established industry from outside competition; and to increase film and tourism travel to Texas.

CSHB2954 creates a financial incentive program to make grants to film/television production companies working in Texas, and set forth the rules under which the program would be administered.

The grants would be equal to 20% of wages paid to Texas residents. Grants would be made only after wages are paid. The bill requires the production company to pay a minimum of $500,000 (or $50,000 in the case of television commercials) in wages to Texas residents in order to qualify for a grant. The maximum grant may not exceed $750,000. To encourage business in Texas' underused film locations, the bill provides for an additional 5% grant for production companies filming at least 25% of their project outside specific major metropolitan areas,

Oversight of this program would be given to the Texas Film and Music division in the Trusted Programs in the Office of the Governor.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. States Sections 485.001-485.007, Government Code, are designated as Subchapter A, Chapter 485, Government Code and a subchapter heading is added to read: SUBCHAPTER A. GENERAL PROVISIONS.

Section 2. Amends Chapter 485, Government Code by adding Subchapter B to read: FILM INDUSTRY INCENTIVE PROGRAM. Under this subchapter, Section 485.021 lists the DEFINITIONS in this subchapter as follows: (1) "Filmed entertainment" means a visual and sound production including a: (A) film; (B) tv program; (C) national or multi-state commercial; (2) "Production Company" includes a film production company, tv production company or a film and tv production company; (3) "Texas resident" means an individual who had resided in Texas since the 60th day before the first day of principal photography on a filmed entertainment; (4) "Underused area" includes an area of this state other than the metropolitan areas of Austin, Houston, or Dallas-Fort Worth.

Section 485.022, FILM INDUSTRY INCENTIVE PROGRAM. (a) adds the office shall administer a grant program for production companies that produce filmed entertainments in Texas. (b) the office shall develop procedures for submitting grant applications and awarding grants under this subchapter. The procedure must include (1) provisions to prove one's Texas residency; and (2) requirements for submission of an estimate of total wages to be paid to Texas residents before production begins.

Section 485.023, QUALIFICATION. To qualify for a grant under this subchapter, a production company must pay a minimum of: (1) $500,000 in wages to Texas residents for a film or tv program; and (2) $50,000 in wages to Texas residents for a commercial or series of commercials.

Section 485.024. GRANT. (a) Except as provided by Section 485.025, a grant under this subchapter may not exceed the lesser of: (1) 20 percent (20%) of the wages paid to Texas residents for a filmed entertainment; or (2) $750,000; (b) In calculating a grant amount under (a), the office may not include wages of persons, including an actor or director, employed in the production of a filmed entertainment that are: (1) a major part or the production costs, as determined by the office; and (2) negotiated or spent before production begins.

Section 485.025. ADDITIONAL GRANT FOR UNDERUSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent (25%) of a filmed entertainment's filming days in a underused area is eligible for an additional grant equal to five percent (5%) of the wages paid to Texas residents for the filmed entertainment.

Section 485.026. STATE DEBT. If a production company owes money to the state at the time the company is awarded a grant, the office shall offset the amount owed from the amount awarded.

Section 3. Amends the Section 156.251 of the Tax Code by adding Subsection (e) to read as follows: In addition to the revenue allocated by subsection (d) of this section, an amount equal to the amount of revenue derived from the collection of taxes imposed by this chapter at a rate of one-half of one percent shall be allocated in the general revenue fund. Of the revenue allocated under this subsection, (1) an amount not to exceed $10 million may be used by the Tourism Division of the Economic Development and Tourism Office for its activities; and (2) an amount not to exceed $20 million shall be used by the Music, Film, Television, and Multimedia Office to promote and provide incentives for the development of the film, television, and multimedia industries in this state. This subsection expires August 31, 2007. Section 3 also adds (f) which states, this subsection and Subsection (e) expire August 31, 2007.

Section 4. States the effective date as September 1, 2005.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

This section would add the necessary funding mechanism needed to fulfill the intent of the bill. It adds an additional half cent to current collections of the hotel occupancy tax and allocates 2/3rds to the Film Initiative and the other 3rd to Tourism. Note, this does not increase the tax, it just allocates what's already collected to certain areas.

The committee substitute changes HB 2954 as filed in the following manner:

It adds Section 3, which contain (e) and (f) and it adds Section 4. Section 3 amends the Section 156.251 of the Tax Code by adding Subsection (e) to read as follows: In addition to the revenue allocated by subsection (d) of this section, an amount equal to the amount of revenue derived from the collection of taxes imposed by this chapter at a rate of one-half of one percent shall be allocated in the general revenue fund. Of the revenue allocated under this subsection, (1) an amount not to exceed $10 million may be used by the Tourism Division of the Economic Development and Tourism Office for its activities; and (2) an amount not to exceed $20 million shall be used by the Music, Film, Television, and Multimedia Office to promote and provide incentives for the development of the film, television, and multimedia industries in this state. This subsection expires August 31, 2007.

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