

## **BILL ANALYSIS**

C.S.H.B. 1142  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas has the potential to greatly increase film, video, and video game production activity. However, Texas currently has only two sound stages. The lack of sound stages is the biggest weakness in our state's film infrastructure.

C.S.H.B. 1142 creates incentives to build media production facilities in Texas for film, television, and video game production. The bill allows cities with a population of 250,000 or more to nominate specific areas to be designated by the Music, Film, Television, and Multimedia Office within the office of the governor as media production zones and qualified media production locations. Those individuals who will build, construct, or renovate media production facilities will be exempted from state sales taxes for all purchases made for that purpose. Moreover, the bill structures the development zone approval process and qualified media production location designation process in a manner that maximizes local input into the decision making process in order to promote growth responsibly.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Music, Film, Television, and Multimedia Office within the office of the governor in SECTION 1 of this bill.

### **ANALYSIS**

#### **Office Powers and Duties in General**

C.S.H.B. 1142 amends the Government Code to require the Music, Film, Television, and Multimedia Office within the office of the governor to administer and monitor the implementation of the provisions of this bill, which may be cited as the Media Production Development Zone Act. The bill requires the office and the office of the comptroller of public accounts jointly to establish criteria and procedures for approving a qualified area recognized as a media production development zone by a nominating body; designating a qualified location in a media production development zone as a qualified media production location; and certifying a person as a qualified person under the bill's provisions. The bill requires the office to adopt rules necessary to implement the act. The bill requires the office, on or before December 15 of each year, to submit to the governor, the legislature, and the Legislative Budget Board a report that evaluates the effectiveness of the media production development zone program and describes the use of state and local incentives under the act and their effect on revenue. The bill requires the office to provide to persons desiring to construct, expand, maintain, improve, or renovate a media production facility in a qualified media production location information and appropriate assistance relating to the required legal authorization, including a permit, certificate, approval, and registration necessary in the state to accomplish that objective. The bill establishes that territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality for purposes of this bill. The bill defines "media production facility," "media production development zone," "moving image project," "nominating body," "office," "qualified media production location," and "qualified person."

## **Approval of Media Production Development Zone and Designation of Qualified Media Production Locations**

C.S.H.B. 1142 establishes that to be approved as a media production development zone, an area must be located in a metropolitan area the principal municipality of which has a population of more than 250,000 and has the adequate workforce, infrastructure, facilities, or resources to support the production and completion of moving image projects; must be recognized as a media production development zone by an ordinance or order, as appropriate, of a municipality or the commissioners court of a county; and will contain a qualified media production location within its geographical boundaries that meets the criteria provided by the bill. The bill establishes that to be designated as a qualified media production location, a location must be land or other real property that is in a qualified media production location and will be used exclusively to build or construct one or more media production facilities; if the real property is a building or other facility, be renovated solely for the purpose of being converted into one or more media production facilities; or if the real property consists solely of one or more media production facilities, be improved or renovated for that purpose or will be expanded into one or more additional media production facilities. The bill prohibits the approval of more than five media production development zones in a region at any one time and limits each zone to not more than three media production locations at any one time. The bill requires the office to divide the state into regions consisting of geographical boundaries prescribed by office rule.

C.S.H.B. 1142 authorizes the governing body of a municipality or county, individually or in combination with other municipalities or counties, by ordinance or order, as appropriate, to nominate as a qualified media production location a location within its jurisdiction that meets the criteria described above for media production location designation. The bill prohibits the governing body of a county from nominating territory in a municipality, including territory in the extraterritorial jurisdiction of a municipality, to be included in a proposed location unless the governing body of the municipality also nominates the territory and together with the county files a joint application under provisions described below.

C.S.H.B. 1142 requires an ordinance or order nominating a location as a qualified media production location to describe precisely both the media production development zone in which the location is to be included and the proposed location by a legal description or reference to municipal or county boundaries; state a finding that the location meets the requirements of the Media Production Development Zone Act and that the zone in which the location is to be included has been recognized as a zone by ordinance or order, as appropriate, by the nominating body; summarize briefly the local financial incentives, including tax incentives, that, at the election of the nominating body, will apply to a qualified person; contain a brief description of the project or activity to be conducted by a qualified person at the location; nominate the location as a qualified media production location; and contain an economic impact analysis from a local land use or economic development expert.

C.S.H.B. 1142 requires the nominating body, for a location in a zone to be designated as a qualified media production location and after nominating the location as a qualified media production location, to send to the office a written application for designation of the location in the zone as a qualified media production location. The bill requires the application to include, for evaluation purposes only, a certified copy of the ordinance or order, as appropriate, nominating the location as a media production location; a certified copy of the ordinance or order, as appropriate, recognizing the zone in which the location is to be included as a media production development zone; appropriate supporting documents demonstrating that the location qualifies for designation as a qualified media production location; an estimate of the economic impact of the designation of the location as a qualified media production location on the revenues of the governmental entity or entities nominating the location as a qualified media production location, considering the financial incentives and benefits contemplated; an economic impact analysis of the proposed project or activities to be conducted at the proposed qualified media production

location, which must include an estimate of the amount of revenue to be generated to the state by the project or activity, an estimate of any secondary economic benefits to be generated by the project or activity, and any other information required by the comptroller for purposes of making the certification required the bill; and any additional information the office requires. The bill requires the economic impact analysis described above to also be submitted to the comptroller.

C.S.H.B. 1142 creates the media production advisory committee composed of the following members: the director of the Texas Film Commission division of the governor's office; one representative of the comptroller's office, appointed by the comptroller; and nine representatives of the media production industry appointed by the comptroller. The bill requires the comptroller, in making appointments to the advisory committee, to provide for a balanced representation of the different geographic regions of Texas. The bill requires each of the following types of companies or organizations to be represented by at least one member serving on the advisory committee: animation production companies, film and television production companies, labor or workforce organizations, equipment vendors, the video gaming industry, and commercial production companies. The bill establishes that the director of the Texas Film Commission division of the office of the governor serves as the presiding officer of the advisory committee, and requires the advisory committee to meet at the call of the presiding officer. The bill requires the advisory committee, through review of applications submitted for designation of a qualified media production location, to make recommendations to the office for such designations, and authorizes the office to provide administrative support to the advisory committee. The bill specifies that provisions relating to the duration of state agency advisory committees do not apply to this advisory committee.

C.S.H.B. 1142 requires the office, on receipt of an application for the designation of a qualified media production location, to review the application to determine whether the nominated location qualifies for designation under the act. The bill requires the office to consider recommendations submitted by the media production advisory committee with respect to applications received by the office. The bill authorizes the office, if the office determines that a nominated location for which a designation application has been received satisfies the criteria for location designation and on recommendation of the media production advisory committee, to designate the nominated location as a qualified media production location unless the request should be denied for reasons specified below. The bill prohibits a designation of a qualified media production location from being made until the comptroller, based on an evaluation of the required economic impact analysis submitted by the applicant, certifies that the project or activity to be conducted at the designated location will have a positive economic impact on Texas. The bill requires the office, on designation of the first qualified media production location in a media production development zone recognized by the nominating body for that purpose, to simultaneously approve the media production development zone. The bill requires the office to deny an application for designation of a location if the office determines that the nominated location does not satisfy the criteria for location designation; the office determines that the number of location designations or number of approved zones at the time of the application are at the maximum limit prescribed by the act; or the comptroller has not certified that the proposed project or activity to be conducted at the location will have a positive economic impact on Texas. The bill requires the office to inform the nominating body of the specific reasons for denial of an application.

C.S.H.B. 1142 authorizes an area to be approved by the office as a media production development zone for a maximum of five years after the date the last qualified media production location was designated within the zone's boundaries, and authorizes a location to be designated as a qualified media production location for a maximum of two years. The bill establishes that a zone approval and location designation remains in effect until September 1 of the final year of the approval or designation, as appropriate, with certain exceptions described below. The bill authorizes the office to remove approval of a zone or location if the area no longer meets the criteria for designation under the Media Production Development Zone Act or by office rule adopted under that act. The bill specifies that the removal of a designation or approval does not

affect the validity of a tax incentive granted or accrued before the removal.

### **Administration of Media Production Location**

C.S.H.B. 1142 requires the governing body of a qualified media production location to submit to the office a report in the form prescribed by the office not later than October 1 of each year. The bill requires the report to include, for the year preceding the date of the report, the use of local incentives for which the governing body provided in the ordinance or order nominating the location and the effect of those incentives on revenue; the number of qualified persons engaging in a project or activity related to a media production facility at the location; and the types of projects or activities engaged or to be engaged in by qualified persons at the location. The bill establishes that for purposes of these provisions, the governing body of a qualified media production location is the governing body of the municipality or county, or the governing bodies of the combination of municipalities or counties, that applied to have the location designated as a qualified media production location.

### **Qualified Person Designation and Certification**

C.S.H.B. 1142 establishes that a person is a qualified person if the office, for the purpose of state benefits under the act, or the nominating body of a qualified media production location, for the purpose of local benefits, certifies that the person, not later than 18 months after the date of the designation, will build or construct one or more media production facilities at a location; will renovate a building or facility solely for the purpose of being converted into one or more media production facilities at a location; or will renovate or expand one or more media production facilities at a location. The bill requires the office, if the office determines that the nominating body of a location is not complying with the act, to prohibit the certification of a qualified person at the location until the office determines that the nominating body is complying with the act. The bill specifies that the office's certification of a person as a qualified person is effective, with certain exceptions described below, until the second anniversary of the date the designation is made, regardless of whether the designation of the location at which the person is to perform the person's commitments under the act is terminated before that date. The bill requires the office to remove the certification of a qualified person for state benefits if the office determines that the construction, renovation, improvement, maintenance, or expansion of a media production facility has not been completed at the location within the 18-month period prescribed by the act.

### **Media Production Location Benefits**

C.S.H.B. 1142 establishes that certain items are exempt from the state sales and use tax as provided by provisions described below. The bill authorizes the office to monitor a qualified person to determine whether and to what extent the person has followed through on commitments made by the person, and to determine that the qualified person is not entitled to a tax exemption if the office determines that the person is not willing to cooperate with the office in providing needed information; has substantially failed to follow through on the commitments made by the person under the act before the first anniversary of the date of the location designation; or fails to submit the annual report described below.

C.S.H.B. 1142 amends the Tax Code to establish that the sale, lease, or rental of a taxable item to a qualified person is exempted from the state sales and use tax if the item is used for the construction, maintenance, expansion, improvement, or renovation of a media production facility at a qualified media production location; to equip a media production facility at a qualified media production location; or for the renovation of a building or facility at a qualified media production location that is to be used exclusively as a media production facility. The bill requires a qualified person to submit an annual report to the comptroller regarding the sale, lease, or rental of taxable items for which a tax exemption is granted to the qualified person, and requires the report to be in the form and manner prescribed by the comptroller. The bill requires the comptroller to share information from such reports, on request, with the office.

## **EFFECTIVE DATE**

September 1, 2009.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1142 relates to the designation of qualified media production locations in media production development zones, whereas the original relates to the designation of media production development zones. The substitute exempts from the state sales and use tax items used for media production facilities in qualified media production locations, whereas the original exempts items used for sound stages in media production development zones. The substitute differs from the original by adding a definition for "media production facility" and "qualified media production location" and removing a definition for "sound stage." The substitute requires the Music, Film, Television, and Multimedia Office within the office of the governor and the office of the comptroller of public accounts jointly to establish criteria and procedures, whereas the original requires the office to establish the criteria and procedures.

C.S.H.B. 1142 establishes criteria for media production development zone recognition, rather than designation as in the original. The substitute requires a media production development zone to contain a qualified media production location within its geographical boundaries, rather than land or other real property that will be used to build or construct sound stages as in the original. The substitute removes a provision in the original requiring an area to be included in a municipal utility district, designated as a tax increment financing reinvestment zone, or designated as a defense economic readjustment zone to be designated as a media production development zone. The substitute requires an area to be recognized as a zone by an ordinance or order, rather than nominated as a zone as in the original. The substitute removes a provision in the original prohibiting the office from designating an area as a media production development zone if two zones are located in the jurisdiction of the nominating body. The substitute limits the maximum number of zone designations throughout the state to 5, rather than 10 as in the original.

C.S.H.B. 1142 makes every provision, other than the provisions described above, that applies to media production development zones in the original apply to media production locations in media production development zones. The substitute adds a provision not included in the original to establish criteria for qualified media production location designation. The substitute adds a provision not included in the original to prohibit a media production development zone from containing more than three media production locations at any one time. The substitute adds provisions not included in the original requiring a nominating ordinance or order and an application to contain an economic impact analysis from a local land use or economic development expert and specifies what the analysis must include. The substitute adds provisions not included in the original to create the media production advisory committee, require the committee to make recommendations to the office for designation of qualified media production locations, and require the office to consider recommendations submitted by the committee. The substitute adds a provision not included in the original to prohibit a designation of a qualified media production location from being made until the comptroller, based on a review of the economic analysis submitted by the applicant, certifies that the project or activity to be conducted at the designated location will have a positive impact on Texas. The substitute adds a provision not included in the original to require the office, on designation of the first qualified media production location in a media production development zone recognized by the nominating body for that purpose, to simultaneously approve the media production development zone. The substitute adds a provision not included in the original to authorize a location to be designated as a qualified media production location for a maximum of two years. The substitute establishes that the office's certification of a person as a qualified person is effective until the second anniversary of the date the designation is made, rather than the fifth anniversary as in the original.

C.S.H.B. 1142 adds a provision not included in the original to authorize the office to determine that a qualified person is not entitled to a tax exemption if the person fails to submit the annual tax report described below. The substitute adds a provision not included in the original to authorize a tax exemption for an item that is used to equip a media production facility at a qualified media production location. The substitute adds a provision not included in the original to require a qualified person to submit an annual report to the comptroller regarding the sale, lease, or rental of taxable items for which a tax exemption is granted and to require the comptroller, on request, to share information from the reports with the office.