

BILL ANALYSIS

Senate Research Center

S.B. 1929
By: Watson, West
Economic Development
9/29/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is working to maintain and strengthen its film production industry in the face of strong competition from other states. Soundstages and other production facilities would be key assets in this effort, and the state needs more of them.

S.B. 1929 amends current law relating to the designation of qualified media production locations in media production development zones and to exemptions from the sales and use tax for items used for media production facilities in qualified media production locations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Music, Film, Television, and Multimedia Office in SECTION 1 (Sections 485A.052, 485A.103, and 485A.112, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 4, Government Code, by adding Chapter 485A, as follows:

CHAPTER 485A. MEDIA PRODUCTION DEVELOPMENT ZONES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485A.001. SHORT TITLE. Authorizes this chapter to be cited as the Media Production Development Zone Act.

Sec. 485A.002. DEFINITIONS. Defines "media production facility," "media production development zone," "moving image project," "nominating body," "office," "qualified media production location," and "qualified person."

Sec. 485A.003. JURISDICTION OF MUNICIPALITY. Provides that territory in the extraterritorial jurisdiction of a municipality, for the purposes of this chapter, is considered to be in the jurisdiction of the municipality.

[Reserves Sections 485A.004-485A.050 for expansion.]

SUBCHAPTER B. OFFICE POWERS AND DUTIES IN GENERAL

Sec. 485A.051. GENERAL POWERS AND DUTIES. (a) Requires the Music, Film, Television, and Multimedia Office (office), except as provided by Subsection (b), to administer and monitor the implementation of this chapter.

(b) Requires the office and the Office of the Comptroller of Public Accounts (comptroller) jointly to establish criteria and procedures for approving a qualified area recognized as a media production development zone (development zone) by a nominating body; designating a qualified location in a development zone as a qualified media production location; and certifying a person as a qualified person under Section 485A.201.

Sec. 485A.052. RULEMAKING AUTHORITY. Requires the office to adopt rules necessary to implement this chapter.

Sec. 485A.053. ANNUAL REPORT. 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 development zone program and describes the use of state and local incentives under this chapter and their effect on revenue.

Sec. 485A.054. ASSISTANCE. 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 this state to accomplish that objective.

[Reserves Sections 485A.055-485A.100 for expansion.]

SUBCHAPTER C. APPROVAL OF MEDIA PRODUCTION DEVELOPMENT ZONE AND DESIGNATION OF QUALIFIED MEDIA PRODUCTION LOCATIONS

Sec. 485A.101. CRITERIA FOR MEDIA PRODUCTION DEVELOPMENT ZONE RECOGNITION. Provides that an area, to be approved as a development zone:

- (1) is required to be in a metropolitan statistical 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;
- (2) is required to be recognized as a development zone by ordinance or order, as appropriate, of a municipality or the commissioners court of a county; and
- (3) will contain a qualified media production location within its geographical boundaries that meets the criteria under Section 485A.102.

Sec. 485A.102. CRITERIA FOR QUALIFIED MEDIA PRODUCTION LOCATION DESIGNATION. Requires that a location, to be designated a qualified media production location, be land or other real property that is in a development zone 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 be expanded into one or more additional media production facilities.

Sec. 485A.103. MAXIMUM NUMBER OF ZONES AND LOCATIONS THROUGHOUT STATE. (a) Prohibits there being more than 10 development zone designations under this chapter at any one time.

(b) Prohibits there being more than five development zone designations under this chapter in a region at any one time.

(c) Prohibits each development zone from containing more than three media production locations at any one time.

(d) Requires the office, for purposes of Subsection (b), to divide the state into regions consisting of geographical boundaries prescribed by office rule.

Sec. 485A.104. NOMINATION OF QUALIFIED MEDIA PRODUCTION LOCATION. (a) 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 under Section 485A.102.

(b) Prohibits the governing body of a county from nominating territory in a municipality, including extraterritorial jurisdiction of a municipality, from being included in a proposed qualified media production location unless the governing body of the municipality also nominates the territory and together with the county files a joint application under Section 485A.106.

Sec. 485A.105. **NOMINATING ORDINANCE OR ORDER.** Requires an ordinance or order nominating a location as a qualified media production location to describe precisely both the 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 this chapter and that the development 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 an economic expert.

Sec. 485A.106. **APPLICATION FOR DESIGNATION.** (a) Requires the nominating body, for an location in a development zone to be designated as a qualified media production location, 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.

(b) Requires that the application include a certified copy of the ordinance or order, as appropriate, nominating the area 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 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 certain estimates and information; and any additional information the office requires.

(c) Provides that information required by Subsection (b) is for evaluation purposes only.

(d) Requires that the economic impact analysis required by Subsection (b)(5) (relating to an economic impact analysis of the proposed project or activities to be conducted at the proposed qualified media production location) also be submitted to the comptroller.

Sec. 485A.107. **ADVISORY COMMITTEE.** (a) Sets forth the composition of the media production advisory committee (advisory committee).

(b) Requires the comptroller, in making appointments to the advisory committee under Subsection (a)(3) (relating to nine representatives of the media production industry appointed by the comptroller to the advisory committee), to provide for a balanced representation of the different geographic regions of this state. Requires that each of the following types of companies or organizations 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.

(c) Provides that the director of the Texas Film Commission division of the office of the governor serves as the presiding officer of the advisory committee. Requires the advisory committee to meet at the call of the presiding officer.

(d) Requires the advisory committee, through review of applications submitted under Section 485A.108, to make recommendations to the office for designation of qualified media production locations under this subchapter. Authorizes the office to provide administrative support to the advisory committee.

(e) Provides that Section 2110.008 (Duration of Advisory Committees) does not apply to the advisory committee.

Sec. 485A.108. REVIEW OF APPLICATION. (a) 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 as a qualified media production location under this chapter.

(b) Requires the office to consider recommendations submitted by the media production advisory committee with respect to applications received by the office.

Sec. 485A.109. DESIGNATION. (a) Authorizes the office, if the office determines that a nominated location for which a designation application has been received satisfies the criteria under Section 485A.102 and on recommendation of the media production advisory committee, to designate the nominated location as a qualified media production location unless the office determines that the designation request should be denied for the reasons specified by Section 485A.110.

(b) Prohibits a designation of a qualified media production location from being made under this section until the comptroller, based on an evaluation of the economic impact analysis submitted under Section 485A.106(b)(5), certifies that the project or activity to be conducted at the designated location will have a positive impact on state revenue.

(c) Requires the office, on designation of the first qualified media production location in a development zone recognized by the nominating body for that purpose, to simultaneously approve the development zone.

Sec. 485A.110. DENIAL OF APPLICATION; NOTICE. (a) Requires the office to deny an application for the designation of a qualified media production location if the office determines that the nominated location does not satisfy the criteria under Section 485A.102, the office determines that the number of media production location designations or number of approved development zones at the time of the application are at the maximum limit prescribed by Section 485A.103, or the comptroller has not certified that the proposed project or activity to be conducted at the location will have a positive impact on state revenue.

(b) Requires the office to inform the nominating body of the specific reasons for denial of an application under this section.

Sec. 485A.111. PERIOD OF APPROVAL OR DESIGNATION. (a) Authorizes an area that qualifies under this subchapter to be approved by the office as a development zone for a maximum of five years after the date the last qualified media production location was designated within the development zone's boundaries.

(b) Authorizes a location to be designated as a qualified media production location and to be eligible for the sales and use tax exemption as provided by Section 151.3415, Tax Code, for a maximum of two years.

(c) Provides that a development zone designation approval and qualified media production location designation, except as provided by Section 485A.112,

remains in effect until September 1 of the final year of the approval or designation, as appropriate.

Sec. 485A.112. REMOVAL OF APPROVAL OR DESIGNATION. (a) Authorizes the office to remove the approval of an area recognized as a development zone if the area no longer meets the criteria for that recognition under this chapter or by office rule adopted under this chapter.

(b) Authorizes the office to remove the designation of a location as a qualified media production location if the location no longer meets the criteria for that designation under this chapter or by office rule adopted under this chapter.

(c) Provides that the removal of a designation does not affect the validity of a tax incentive granted or accrued before the removal.

[Reserves Sections 485A.113-485A.150 for expansion.]

SUBCHAPTER D. ADMINISTRATION OF MEDIA PRODUCTION LOCATION

Sec. 485A.151. ANNUAL REPORT. (a) Provides that the governing body of a qualified media production location, for the purposes of this section, 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.

(b) Requires the governing body of a qualified media production location, not later than October 1 of each year, to submit to the office a report in the form prescribed by the office.

(c) Sets forth information for the year preceding the date of the report that is required to be included in the report.

[Reserves Sections 485A.152-485A.200 for expansion.]

SUBCHAPTER E. QUALIFIED PERSON DESIGNATION AND CERTIFICATION

Sec. 485A.201. QUALIFIED PERSON. Provides that a person is a qualified person if the office, for the purpose of state benefits under this chapter, 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.

Sec. 485A.202. PROHIBITION ON QUALIFIED PERSON CERTIFICATION. Requires the office, if the office determines that the nominating body of a qualified media production location is not complying with this chapter, to prohibit the certification of a qualified person in the location until the office determines that the nominating body is complying with this chapter.

Sec. 485A.203. DURATION OF DESIGNATION. Provides that the office's certification of a person as a qualified person, except as provided by Section 485A.204, is effective until the second anniversary of the date the designation is made, regardless of whether the designation of the qualified media production location at which the qualified person is to perform its commitments under this chapter is terminated before the date.

Sec. 485A.204. REMOVAL OF DESIGNATION. Requires the office to remove the certification of a qualified person for state benefits under this chapter if the office determines that the construction, renovation, improvement, maintenance, or expansion of a media production facility has not been completed at the qualified media production

location for which it has received its certification within the period described by Section 485A.201.

[Reserves Sections 485A.205-485A.250 for expansion.]

SUBCHAPTER F. MEDIA PRODUCTION LOCATION BENEFITS

Sec. 485A.251. EXEMPTION FROM SALES AND USE TAX. Provides that certain items are exempt from the sales and use tax as provided by Section 151.3415, Tax Code.

Sec. 485A.252. MONITORING QUALIFIED PERSON COMMITMENTS. (a) Authorizes the office to monitor a qualified person to determine whether and to what extent the qualified person has followed through on the commitments made by the qualified person under this chapter.

(b) Authorizes the office to determine that the qualified person is not entitled to a tax exemption under Section 151.3415, Tax Code, if the office determines that the qualified person is not willing to cooperate with the office in providing information needed by the office to make the determination under Subsection (a), has substantially failed to follow through on the commitments made by the person under this chapter before the first anniversary of the date of the qualified media production location designation, or fails to submit the report required by Section 151.3415, Tax Code.

SECTION 2. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.3415, as follows:

Sec. 151.3415. ITEMS SOLD TO OR USED TO CONSTRUCT, MAINTAIN, EXPAND, IMPROVE, EQUIP, OR RENOVATE MEDIA PRODUCTION FACILITIES AT MEDIA PRODUCTION LOCATIONS; REPORT. (a) Defines "qualified person" and "qualified media production location."

(b) Provides that the sale, lease, or rental of a taxable item to a qualified person is exempted from the taxes imposed by this chapter for a maximum of two years 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 the qualified media production location that is to be used exclusively as a media production facility.

(c) 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 under this section. Requires that the report be in the form and manner prescribed by the comptroller.

(d) Requires the comptroller to share information from reports submitted under Subsection (c), on request, with the office.

SECTION 3. Effective date: September 1, 2009.