

BILL ANALYSIS

S.B. 1929
By: Watson
Culture, Recreation & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 sets forth provisions 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

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

S.B. 1929 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

S.B. 1929 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 media production 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 will be expanded into one or more additional media production facilities. The bill establishes that there may not be more than 10 media production development zone designations at any one time; establishes that there may not be more than five 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.

S.B. 1929 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.

S.B. 1929 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 an economic expert.

S.B. 1929 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, an estimate of the amount of state taxes to be exempted as provided by the bill, 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.

S.B. 1929 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 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.

S.B. 1929 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 impact on state revenue. 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 impact on state revenue. The bill requires the office to inform the nominating body of the specific reasons for denial of an application.

S.B. 1929 authorizes a qualified 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 and to be eligible for the sales and use tax exemption as provided by the bill 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 that recognition or designation, as applicable, 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

S.B. 1929 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

S.B. 1929 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

S.B. 1929 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.

S.B. 1929 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 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 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.