

1-1 By: Watson S.B. No. 1929
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Economic Development;
1-4 April 23, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 3, Nays 0; April 23, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1929 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the designation of qualified media production locations
1-11 in media production development zones and to exemptions from the
1-12 sales and use tax for items used for media production facilities in
1-13 qualified media production locations.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subtitle F, Title 4, Government Code, is amended
1-16 by adding Chapter 485A to read as follows:

1-17 CHAPTER 485A. MEDIA PRODUCTION DEVELOPMENT ZONES

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 485A.001. SHORT TITLE. This chapter may be cited as
1-20 the Media Production Development Zone Act.

1-21 Sec. 485A.002. DEFINITIONS. In this chapter:

1-22 (1) "Media production facility" means a structure,
1-23 building, or room used for the specific purpose of creating a moving
1-24 image project. The term includes but is not limited to:

1-25 (A) a soundstage and scoring stage;

1-26 (B) a production office;

1-27 (C) an editing facility, an animation production
1-28 facility, and a video game production facility;

1-29 (D) a storage and construction space; and

1-30 (E) a sound recording studio and motion capture
1-31 studio.

1-32 (2) "Media production development zone" means an area
1-33 recognized by a nominating body and approved by the office as a
1-34 media production development zone under this chapter.

1-35 (3) "Moving image project" means a visual and sound
1-36 production, including a film, television program, national or
1-37 multistate commercial, or digital interactive media production.
1-38 The term does not include a production that is obscene, as defined
1-39 by Section 43.21, Penal Code.

1-40 (4) "Nominating body" means the governing body of a
1-41 municipality or county, or a combination of the governing bodies of
1-42 municipalities or counties, that:

1-43 (A) recognizes a qualified area as a media
1-44 production development zone; and

1-45 (B) nominates and applies for designation of a
1-46 location in a media production development zone as a qualified
1-47 media production location.

1-48 (5) "Office" means the Music, Film, Television, and
1-49 Multimedia Office within the office of the governor.

1-50 (6) "Qualified media production location" means a
1-51 location in a media production development zone that has been
1-52 designated by the office as a qualified media production location
1-53 in accordance with this chapter.

1-54 (7) "Qualified person" means a person certified as a
1-55 qualified person under Section 485A.201.

1-56 Sec. 485A.003. JURISDICTION OF MUNICIPALITY. For the
1-57 purposes of this chapter, territory in the extraterritorial
1-58 jurisdiction of a municipality is considered to be in the
1-59 jurisdiction of the municipality.

1-60 [Sections 485A.004-485A.050 reserved for expansion]

1-61 SUBCHAPTER B. OFFICE POWERS AND DUTIES IN GENERAL

1-62 Sec. 485A.051. GENERAL POWERS AND DUTIES. (a) Except as
1-63 provided by Subsection (b), the office shall administer and monitor

2-1 the implementation of this chapter.
2-2 (b) The office and the comptroller's office shall jointly
2-3 establish criteria and procedures for:
2-4 (1) approving a qualified area recognized as a media
2-5 production development zone by a nominating body;
2-6 (2) designating a qualified location in a media
2-7 production development zone as a qualified media production
2-8 location; and
2-9 (3) certifying a person as a qualified person under
2-10 Section 485A.201.
2-11 Sec. 485A.052. RULEMAKING AUTHORITY. The office shall
2-12 adopt rules necessary to implement this chapter.
2-13 Sec. 485A.053. ANNUAL REPORT. On or before December 15 of
2-14 each year, the office shall submit to the governor, the
2-15 legislature, and the Legislative Budget Board a report that:
2-16 (1) evaluates the effectiveness of the media
2-17 production development zone program; and
2-18 (2) describes the use of state and local incentives
2-19 under this chapter and their effect on revenue.
2-20 Sec. 485A.054. ASSISTANCE. The office shall provide to
2-21 persons desiring to construct, expand, maintain, improve, or
2-22 renovate a media production facility in a qualified media
2-23 production location information and appropriate assistance
2-24 relating to the required legal authorization, including a permit,
2-25 certificate, approval, and registration, necessary in this state to
2-26 accomplish that objective.
2-27 [Sections 485A.055-485A.100 reserved for expansion]
2-28 SUBCHAPTER C. APPROVAL OF MEDIA PRODUCTION DEVELOPMENT ZONE AND
2-29 DESIGNATION OF QUALIFIED MEDIA PRODUCTION LOCATIONS
2-30 Sec. 485A.101. CRITERIA FOR MEDIA PRODUCTION DEVELOPMENT
2-31 ZONE RECOGNITION. To be approved as a media production development
2-32 zone, an area:
2-33 (1) must be in a metropolitan area, the principal
2-34 municipality of which:
2-35 (A) has a population of more than 250,000; and
2-36 (B) has the adequate workforce, infrastructure,
2-37 facilities, or resources to support the production and completion
2-38 of moving image projects;
2-39 (2) must be recognized as a media production
2-40 development zone by ordinance or order, as appropriate, of a
2-41 municipality or the commissioners court of a county; and
2-42 (3) will contain a qualified media production location
2-43 within its geographical boundaries that meets the criteria under
2-44 Section 485A.102.
2-45 Sec. 485A.102. CRITERIA FOR QUALIFIED MEDIA PRODUCTION
2-46 LOCATION DESIGNATION. To be designated a qualified media
2-47 production location, a location must be land or other real property
2-48 that is in a media production development zone and will:
2-49 (1) be used exclusively to build or construct one or
2-50 more media production facilities;
2-51 (2) if the real property is a building or other
2-52 facility, be renovated solely for the purpose of being converted
2-53 into one or more media production facilities; or
2-54 (3) if the real property consists solely of one or more
2-55 media production facilities, be improved or renovated for that
2-56 purpose or will be expanded into one or more additional media
2-57 production facilities.
2-58 Sec. 485A.103. MAXIMUM NUMBER OF ZONES AND LOCATIONS
2-59 THROUGHOUT STATE. (a) There may not be more than 10 media
2-60 production development zone designations under this chapter at any
2-61 one time.
2-62 (b) There may not be more than five media production
2-63 development zones under this chapter in a region at any one time.
2-64 (c) Each media production development zone may not contain
2-65 more than three media production locations at any one time.
2-66 (d) For purposes of Subsection (b), the office shall divide
2-67 the state into regions consisting of geographical boundaries
2-68 prescribed by office rule.
2-69 Sec. 485A.104. NOMINATION OF QUALIFIED MEDIA PRODUCTION

3-1 LOCATION. (a) The governing body of a municipality or county,
3-2 individually or in combination with other municipalities or
3-3 counties, by ordinance or order, as appropriate, may nominate as a
3-4 qualified media production location a location within its
3-5 jurisdiction that meets the criteria under Section 485A.102.

3-6 (b) The governing body of a county may not nominate
3-7 territory in a municipality, including extraterritorial
3-8 jurisdiction of a municipality, to be included in a proposed
3-9 qualified media production location unless the governing body of
3-10 the municipality also nominates the territory and together with the
3-11 county files a joint application under Section 485A.106.

3-12 Sec. 485A.105. NOMINATING ORDINANCE OR ORDER. An ordinance
3-13 or order nominating a location as a qualified media production
3-14 location must:

3-15 (1) describe precisely both the media production
3-16 development zone in which the location is to be included and the
3-17 proposed location by a legal description or reference to municipal
3-18 or county boundaries;

3-19 (2) state a finding that the location meets the
3-20 requirements of this chapter and that the media production
3-21 development zone in which the location is to be included has been
3-22 recognized as a zone by ordinance or order, as appropriate, by the
3-23 nominating body;

3-24 (3) summarize briefly the local financial incentives,
3-25 including tax incentives, that, at the election of the nominating
3-26 body, will apply to a qualified person;

3-27 (4) contain a brief description of the project or
3-28 activity to be conducted by a qualified person at the location;

3-29 (5) nominate the location as a qualified media
3-30 production location; and

3-31 (6) contain an economic impact analysis from a local
3-32 land use or economic development expert.

3-33 Sec. 485A.106. APPLICATION FOR DESIGNATION. (a) For a
3-34 location in a media production development zone to be designated as
3-35 a qualified media production location, the nominating body, after
3-36 nominating the location as a qualified media production location,
3-37 must send to the office a written application for designation of the
3-38 location in the zone as a qualified media production location.

3-39 (b) The application must include:

3-40 (1) a certified copy of the ordinance or order, as
3-41 appropriate, nominating the location as a media production
3-42 location;

3-43 (2) a certified copy of the ordinance or order, as
3-44 appropriate, recognizing the zone in which the location is to be
3-45 included as a media production development zone;

3-46 (3) appropriate supporting documents demonstrating
3-47 that the location qualifies for designation as a qualified media
3-48 production location;

3-49 (4) an estimate of the economic impact of the
3-50 designation of the location as a qualified media production
3-51 location on the revenues of the governmental entity or entities
3-52 nominating the location as a qualified media production location,
3-53 considering the financial incentives and benefits contemplated;

3-54 (5) an economic impact analysis of the proposed
3-55 project or activities to be conducted at the proposed qualified
3-56 media production location, which must include:

3-57 (A) an estimate of the amount of revenue to be
3-58 generated to the state by the project or activity;

3-59 (B) an estimate of any secondary economic
3-60 benefits to be generated by the project or activity; and

3-61 (C) any other information required by the
3-62 comptroller for purposes of making the certification required by
3-63 Section 485A.109(b); and

3-64 (6) any additional information the office requires.

3-65 (c) Information required by Subsection (b) is for
3-66 evaluation purposes only.

3-67 (d) The economic impact analysis required by Subsection
3-68 (b)(5) must also be submitted to the comptroller.

3-69 Sec. 485A.107. ADVISORY COMMITTEE. (a) The media

4-1 production advisory committee is composed of the following members:
4-2 (1) the director of the Texas Film Commission division
4-3 of the governor's office;

4-4 (2) one representative of the comptroller's office,
4-5 appointed by the comptroller; and

4-6 (3) subject to Subsection (b), nine representatives of
4-7 the media production industry appointed by the comptroller.

4-8 (b) In making appointments to the advisory committee under
4-9 Subsection (a)(3), the comptroller shall provide for a balanced
4-10 representation of the different geographic regions of this state.
4-11 Each of the following types of companies or organizations must be
4-12 represented by at least one member serving on the advisory
4-13 committee:

4-14 (1) animation production companies;

4-15 (2) film and television production companies;

4-16 (3) labor or workforce organizations;

4-17 (4) equipment vendors;

4-18 (5) the video gaming industry; and

4-19 (6) commercial production companies.

4-20 (c) The director of the Texas Film Commission division of
4-21 the office of the governor serves as the presiding officer of the
4-22 advisory committee. The advisory committee shall meet at the call
4-23 of the presiding officer.

4-24 (d) The advisory committee, through review of applications
4-25 submitted under Section 485A.108, shall make recommendations to the
4-26 office for designation of qualified media production locations
4-27 under this subchapter. The office may provide administrative
4-28 support to the advisory committee.

4-29 (e) Section 2110.008 does not apply to the advisory
4-30 committee.

4-31 Sec. 485A.108. REVIEW OF APPLICATION. (a) On receipt of
4-32 an application for the designation of a qualified media production
4-33 location, the office shall review the application to determine
4-34 whether the nominated location qualifies for designation as a
4-35 qualified media production location under this chapter.

4-36 (b) The office shall consider recommendations submitted by
4-37 the media production advisory committee with respect to
4-38 applications received by the office.

4-39 Sec. 485A.109. DESIGNATION. (a) If the office determines
4-40 that a nominated location for which a designation application has
4-41 been received satisfies the criteria under Section 485A.102 and on
4-42 recommendation of the media production advisory committee, the
4-43 office may designate the nominated location as a qualified media
4-44 production location unless the office determines that the
4-45 designation request should be denied for the reasons specified by
4-46 Section 485A.110.

4-47 (b) A designation of a qualified media production location
4-48 may not be made under this section until the comptroller, based on
4-49 an evaluation of the economic impact analysis submitted under
4-50 Section 485A.106(b)(5), certifies that the project or activity to
4-51 be conducted at the designated location will have a positive
4-52 economic impact on this state.

4-53 (c) On designation of the first qualified media production
4-54 location in a media production development zone recognized by the
4-55 nominating body for that purpose, the office shall simultaneously
4-56 approve the media production development zone.

4-57 Sec. 485A.110. DENIAL OF APPLICATION; NOTICE. (a) The
4-58 office shall deny an application for the designation of a qualified
4-59 media production location if:

4-60 (1) the office determines that the nominated
4-61 location does not satisfy the criteria under Section 485A.102;

4-62 (2) the office determines that the number of media
4-63 production location designations or number of approved media
4-64 production development zones at the time of the application are at
4-65 the maximum limit prescribed by Section 485A.103; or

4-66 (3) the comptroller has not certified that the
4-67 proposed project or activity to be conducted at the location will
4-68 have a positive economic impact on this state.

4-69 (b) The office shall inform the nominating body of the

5-1 specific reasons for denial of an application under this section.
5-2 Sec. 485A.111. PERIOD OF APPROVAL OR DESIGNATION. (a) An
5-3 area may be approved by the office as a media production development
5-4 zone for a maximum of five years after the date the last qualified
5-5 media production location was designated within the zone's
5-6 boundaries.

5-7 (b) A location may be designated as a qualified media
5-8 production location for a maximum of two years.

5-9 (c) Except as provided by Section 485A.112, a media
5-10 production development zone approval and qualified media
5-11 production location designation remains in effect until September 1
5-12 of the final year of the approval or designation, as appropriate.

5-13 Sec. 485A.112. REMOVAL OF APPROVAL OR DESIGNATION.

5-14 (a) The office may remove the approval of an area recognized as a
5-15 media production development zone if the area no longer meets the
5-16 criteria for that recognition under this chapter or by office rule
5-17 adopted under this chapter.

5-18 (b) The office may remove the designation of a location as a
5-19 qualified media production location if the location no longer meets
5-20 the criteria for that designation under this chapter or by office
5-21 rule adopted under this chapter.

5-22 (c) The removal of a designation or approval does not affect
5-23 the validity of a tax incentive granted or accrued before the
5-24 removal.

5-25 [Sections 485A.113-485A.150 reserved for expansion]

5-26 SUBCHAPTER D. ADMINISTRATION OF MEDIA PRODUCTION LOCATION

5-27 Sec. 485A.151. ANNUAL REPORT. (a) For purposes of this
5-28 section, the governing body of a qualified media production
5-29 location is the governing body of the municipality or county, or the
5-30 governing bodies of the combination of municipalities or counties,
5-31 that applied to have the location designated as a qualified media
5-32 production location.

5-33 (b) Not later than October 1 of each year, the governing
5-34 body of a qualified media production location shall submit to the
5-35 office a report in the form prescribed by the office.

5-36 (c) The report must include for the year preceding the date
5-37 of the report:

5-38 (1) the use of local incentives for which the
5-39 governing body provided in the ordinance or order nominating the
5-40 qualified media production location and the effect of those
5-41 incentives on revenue;

5-42 (2) the number of qualified persons engaging in a
5-43 project or activity related to a media production facility at the
5-44 qualified media production location; and

5-45 (3) the types of projects or activities engaged or to
5-46 be engaged in by qualified persons at the qualified media
5-47 production location.

5-48 [Sections 485A.152-485A.200 reserved for expansion]

5-49 SUBCHAPTER E. QUALIFIED PERSON DESIGNATION AND CERTIFICATION

5-50 Sec. 485A.201. QUALIFIED PERSON. A person is a qualified
5-51 person if the office, for the purpose of state benefits under this
5-52 chapter, or the nominating body of a qualified media production
5-53 location, for the purpose of local benefits, certifies that the
5-54 person, not later than 18 months after the date of the designation:

5-55 (1) will build or construct one or more media
5-56 production facilities at a location;

5-57 (2) will renovate a building or facility solely for
5-58 the purpose of being converted into one or more media production
5-59 facilities at a location; or

5-60 (3) will renovate or expand one or more media
5-61 production facilities at a location.

5-62 Sec. 485A.202. PROHIBITION ON QUALIFIED PERSON
5-63 CERTIFICATION. If the office determines that the nominating body
5-64 of a qualified media production location is not complying with this
5-65 chapter, the office shall prohibit the certification of a qualified
5-66 person at the location until the office determines that the
5-67 nominating body is complying with this chapter.

5-68 Sec. 485A.203. DURATION OF DESIGNATION. Except as provided
5-69 by Section 485A.204, the office's certification of a person as a

6-1 qualified person is effective until the second anniversary of the
6-2 date the designation is made, regardless of whether the designation
6-3 of the qualified media production location at which the qualified
6-4 person is to perform its commitments under this chapter is
6-5 terminated before that date.

6-6 Sec. 485A.204. REMOVAL OF DESIGNATION. The office shall
6-7 remove the certification of a qualified person for state benefits
6-8 under this chapter if the office determines that the construction,
6-9 renovation, improvement, maintenance, or expansion of a media
6-10 production facility has not been completed at the qualified media
6-11 production location for which it has received its certification
6-12 within the period prescribed by Section 485A.201.

6-13 [Sections 485A.205-485A.250 reserved for expansion]

6-14 SUBCHAPTER F. MEDIA PRODUCTION LOCATION BENEFITS

6-15 Sec. 485A.251. EXEMPTION FROM SALES AND USE TAX. Certain
6-16 items are exempt from the sales and use tax as provided by Section
6-17 151.3415, Tax Code.

6-18 Sec. 485A.252. MONITORING QUALIFIED PERSON COMMITMENTS.

6-19 (a) The office may monitor a qualified person to determine whether
6-20 and to what extent the qualified person has followed through on the
6-21 commitments made by the qualified person under this chapter.

6-22 (b) The office may determine that the qualified person is
6-23 not entitled to a tax exemption under Section 151.3415, Tax Code, if
6-24 the office determines that the qualified person:

6-25 (1) is not willing to cooperate with the office in
6-26 providing information needed by the office to make the
6-27 determination under Subsection (a);

6-28 (2) has substantially failed to follow through on the
6-29 commitments made by the person under this chapter before the first
6-30 anniversary of the date of the qualified media production location
6-31 designation; or

6-32 (3) fails to submit the report required by Section
6-33 151.3415, Tax Code.

6-34 SECTION 2. Subchapter H, Chapter 151, Tax Code, is amended
6-35 by adding Section 151.3415 to read as follows:

6-36 Sec. 151.3415. ITEMS SOLD TO OR USED TO CONSTRUCT,
6-37 MAINTAIN, EXPAND, IMPROVE, EQUIP, OR RENOVATE MEDIA PRODUCTION
6-38 FACILITIES AT MEDIA PRODUCTION LOCATIONS; REPORT. (a) In this
6-39 section, "qualified person" and "qualified media production
6-40 location" have the meanings assigned by Section 485A.002,
6-41 Government Code.

6-42 (b) The sale, lease, or rental of a taxable item to a
6-43 qualified person is exempted from the taxes imposed by this chapter
6-44 if the item is used:

6-45 (1) for the construction, maintenance, expansion,
6-46 improvement, or renovation of a media production facility at a
6-47 qualified media production location;

6-48 (2) to equip a media production facility at a
6-49 qualified media production location; or

6-50 (3) for the renovation of a building or facility at a
6-51 qualified media production location that is to be used exclusively
6-52 as a media production facility.

6-53 (c) A qualified person shall submit an annual report to the
6-54 comptroller regarding the sale, lease, or rental of taxable items
6-55 for which a tax exemption is granted to the qualified person under
6-56 this section. The report must be in the form and manner prescribed
6-57 by the comptroller.

6-58 (d) The comptroller shall share information from reports
6-59 submitted under Subsection (c), on request, with the Music, Film,
6-60 Television, and Multimedia Office within the office of the
6-61 governor.

6-62 SECTION 3. This Act takes effect September 1, 2009.

6-63 * * * * *