

BILL ANALYSIS

C.S.H.B. 4419
By: Goldman
Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is currently a lack of incentives for media production in Texas. Moreover, there are workforce concerns in the state's media production industry that could potentially be hindering industry growth and expansion in Texas. C.S.H.B. 4419 seeks to address these issues by making certain film and television productions eligible for funding under the major events reimbursement program, creating virtual film production institutes with Texas A&M University at College Station and Texas State University to increase educational opportunities for student engagement and involvement in the virtual film production industry, providing additional funding opportunities for this dynamic industry through the creation of a film events trust fund and a film production tax rebate trust fund, and removing limitations on the number of media production development zones in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Economic Development and Tourism Office in SECTION 6 of this bill and the Music, Film, Television, and Multimedia Office in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 4419 sets out provisions relating to the promotion of film and television production in Texas, including the establishment of virtual film production institutes, the eligibility of film or television productions for funding under the major events reimbursement program, the creation of a film events trust fund and a film production tax rebate trust fund, and the designation of media production development zones.

Virtual Film Production Institutes

C.S.H.B. 4419 amends the Education Code to authorize Texas A&M University at College Station and Texas State University to each establish a virtual film production institute to provide educational opportunities for students interested in studying virtual film production and promote student engagement in the development of a virtual film production industry in Texas. The bill authorizes each institute, in addition to any amount appropriated by the legislature, to apply for and accept gifts, grants, and donations from the federal government or any other source.

Major Events Reimbursement Program

C.S.H.B. 4419 amends the Government Code to make a film or television production eligible to receive funding under the major events reimbursement program if a site selection organization selects:

- a site in Texas as the sole site for the event;
- two or more predetermined locations as the sites in Texas for the event; or
- a site in Texas as the sole site for the event in a region composed of Texas and one or more adjoining states.

Moreover, the bill expands the entities classified as a "site selection organization" for purposes of that program to include a film or television production organization. For these purposes, the bill defines the following terms:

- "film or television production" as the activities necessary to prepare, produce, perform, or present in Texas a television program, movie, virtual film, or any combination of multimedia program; and
- "film or television production organization" as an organization that produces a television program, movie, virtual film, or multimedia program, regardless of the manner in which the organization is formed or legally organized, including a production company, a studio, or a production team for a television program, movie, virtual film, or multimedia program.

Film Events Trust Fund

C.S.H.B. 4419 establishes the film events trust fund as a fund outside the state treasury for purposes of maximizing the preparation, production, performance, or presentation of television programs, movies, virtual films, and multimedia productions in Texas and successfully competing with other states for those programs, movies, films, and productions. The bill establishes that the trust fund is to be held in trust by the comptroller of public accounts for administration of the fund and the bill's provisions governing the fund.

Film Events Eligible for Funding

C.S.H.B. 4419 makes a film event eligible for funding from the trust fund if the following conditions are satisfied:

- a site selection organization, after conducting a highly competitive selection process of one or more sites not in Texas, selects a site in Texas for the film event to be held:
 - one time; or
 - if the film event is scheduled under an event contract or event support contract to be held each year for a period of years, one time in each year; and
- a site selection organization selects:
 - a site in Texas as the sole site for the film event;
 - two or more predetermined locations as the sites in Texas for the film event; or
 - a site in Texas as the sole site for the film event in a region composed of Texas and one or more adjoining states.

State Actions Relating to Film Events

Prerequisites for Action

C.S.H.B. 4419 prohibits the Texas Economic Development and Tourism Office (TEDTO) from undertaking a duty imposed under the bill's provisions establishing and governing the trust fund unless:

- the municipality or county in which a film event will be located submits a request for funding from the trust fund; and
- the request is accompanied by documentation from a site selection organization selecting the site for the film event.

Determination of Incremental Increase in Certain Tax Receipts; Limitation on Certain Funding Requests

C.S.H.B. 4419 requires TEDTO, after a site selection organization selects a site for a film event in Texas in accordance with an application by an endorsing entity, to determine the incremental increases in the following tax receipts that TEDTO determines are directly attributable to the film event for the 30-day period that ends at the end of the day after the date on which the film event activities in the state are completed or, if the film event will be presented on more than one day, after the last date on which the film event will be presented for a certain period:

- the receipts to the state from sales and use tax, the tax on the sale, rental, and use of motor vehicles, hotel occupancy tax, mixed beverage tax, and taxes imposed under the Alcoholic Beverage Code in designated market areas;
- the receipts collected by the state for each endorsing municipality and county in the market area from the sales and use tax imposed by each endorsing municipality and county, as applicable, and the mixed beverage tax revenue to be received by each endorsing municipality and county, as applicable; and
- the receipts collected by each endorsing municipality and each endorsing county in the market area from the municipal and county hotel occupancy tax, as applicable.

C.S.H.B. 4419 requires TEDTO to make its determination in accordance with procedures it develops and to base that determination on information submitted by an endorsing entity. When determining the amount of state revenue available from sales and use tax, the tax on the sale, rental, and use of motor vehicles, hotel occupancy tax, mixed beverage tax, and taxes imposed under the Alcoholic Beverage Code in designated market areas, TEDTO may consider whether the particular film event has been previously prepared, produced, performed, or presented in Texas and whether changes to the character of the film event could affect the incremental increase in those tax receipts collected and remitted to the state by an endorsing municipality or endorsing county. The bill requires TEDTO to determine the incremental increase in tax receipts not later than the earlier of:

- the 30th day after the date TEDTO receives the information for a film event submitted by an endorsing entity on which TEDTO bases the determination; and
- three months before the date scheduled for commencement of preparation, production, performance, or presentation of the film event.

C.S.H.B. 4419 caps at 30 the number of requests for funding from the trust fund for film events for which TEDTO determines the total incremental in tax receipts is less than \$5 million that an endorsing municipality or endorsing county may submit during any 12-month period.

Designation of Market Area

C.S.H.B. 4419, for purposes of determining the incremental increase in certain state tax receipts, requires TEDTO to designate as a market area for a film event each area in which TEDTO determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation, production, performance, or presentation of the film event. The bill requires TEDTO to include areas likely to provide venues, accommodations, and services in connection with the film event based on the proposal the endorsing entity provides to TEDTO. The bill also requires TEDTO to determine the geographic boundaries of each market area, which must include the endorsing municipality or endorsing county selected as the site for the film event.

Estimate of Tax Revenue Credited to the Trust Fund

C.S.H.B. 4419 requires TEDTO, not later than three months before the first date scheduled for commencement of preparation, production, performance, or presentation of a film event, to provide an estimate of the total amount of tax revenue that would be transferred or deposited to the film events trust fund in connection with that film event if the film event were prepared,

produced, performed, or presented in Texas at a site selected in accordance with an application by an endorsing entity. The bill requires TEDTO to provide the estimate on request to an endorsing entity and authorizes the entity to submit TEDTO's estimate to a site selection organization.

Model Film Event Support Contract

C.S.H.B. 4419 authorizes TEDTO to adopt a model film event support contract and make the contract available on its website. The bill establishes that the adoption of such a model contract does not require the use of that contract for purposes of the trust fund.

Fund Contributions

C.S.H.B. 4419 requires each endorsing municipality or endorsing county to remit to the comptroller, and requires the comptroller to deposit into the film events trust fund, the amount of municipality's or county's hotel occupancy tax revenue determined by TEDTO to have been incrementally increased, less any amount of the revenue that the municipality or county determines is necessary to meet its obligations. The bill requires the comptroller, at the direction of TEDTO, to retain the amount of sales and use tax revenue and mixed beverage tax revenue determined by TEDTO to have been incrementally increased from the amounts otherwise required to be sent to the municipality or county, as appropriate, less any amount of the revenue that the municipality or county determines is necessary to meet its obligations, and requires the comptroller to deposit the retained tax revenue to the film events trust fund. The bill requires the comptroller to begin retaining and depositing the municipal and county tax revenue with the first distribution of that tax revenue that occurs after the first day of the applicable period during which incremental increases in tax revenue were determined or at a time TEDTO otherwise determines to be practicable. The comptroller must discontinue retaining the municipal and county tax revenue when the amount of the local sales and use tax revenue and mixed beverage tax revenue determined by TEDTO to have been incrementally increased has been retained.

C.S.H.B. 4419 authorizes an endorsing municipality or endorsing county, in lieu of retaining or remitting such tax revenues, to remit to TEDTO for deposit to the trust fund other local money in an amount equal to the total amount of the applicable local sales and use tax revenue, mixed beverage tax revenue, and hotel occupancy tax revenue determined by TEDTO to have been incrementally increased. The bill requires an endorsing municipality or endorsing county, if opting to do so, to remit the other local money not later than the 90th day after the last day of the period scheduled for the film event. The bill authorizes an endorsing municipality or endorsing county to collect and remit to TEDTO any applicable surcharges and user fees attributable to a film event for deposit to the film events trust fund. The bill requires the comptroller, at the direction of TEDTO, to transfer to the trust fund a portion of the state tax revenue in an amount equal to 6.25 multiplied by the amount of the municipal and county tax revenue retained or remitted under the bill's provisions, including local sales and use tax revenue, mixed beverage tax revenue, hotel occupancy tax revenue, and any applicable surcharge and user fee revenue. The bill caps the amount transferred at the amount of the incremental increase in state tax receipts as determined by TEDTO and establishes that, for purposes of the requirement for the comptroller to make that transfer, an amount of local money that an endorsing municipality or endorsing county opts to remit to TEDTO is considered remitted municipal and county tax revenue.

Disbursements from Trust Fund

C.S.H.B. 4419 authorizes the money in the trust fund to be disbursed by TEDTO without appropriation but only in the manner provided by the bill. After approval of each contributing endorsing municipality and endorsing county, if any, TEDTO may make a disbursement from the trust fund for a purpose for which an endorsing entity or the state is obligated under an event support contract, including any obligation to pay costs incurred in preparing, producing,

performing, or presenting the film event. In considering whether to make a disbursement from the trust fund, TEDTO may not consider a contingency clause in an event support contract as relieving an endorsing entity's obligation to pay a cost under the contract. If TEDTO makes a disbursement from the trust fund, TEDTO must satisfy the obligation proportionately from the local and state revenue in the fund.

C.S.H.B. 4419 requires TEDTO, after the conclusion of the performance or presentation of a film event, to compare information on any applicable actual attendance figures with any estimated attendance numbers used to determine the incremental increase in tax receipts. If the actual attendance figures are significantly lower than the estimated attendance numbers, TEDTO may reduce the amount of a disbursement from the trust fund for an endorsing entity in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount the entity contributed to the fund. The bill requires TEDTO to define by rule "significantly lower" for this purpose and to provide by rule the manner in which the office may proportionately reduce a disbursement. These provisions do not affect the remittance of any money remaining in the trust fund as provided by the bill.

C.S.H.B. 4419 establishes that a disbursement from the trust fund is limited to 25 percent of the cost of a structural improvement or a fixture if an obligation is incurred under an event support contract to make the improvement or add the fixture to a site for a film event and the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future film events. The remainder of such an obligation is not eligible for a disbursement from the trust fund, unless the obligation is for an improvement or fixture for a publicly owned facility or facility that could be used for future film events.

C.S.H.B. 4419 prohibits TEDTO from making a disbursement from the trust fund that TEDTO determines would be used to construct an arena, stadium, or convention center or conduct usual and customary maintenance of a facility. The bill expressly does not prohibit a disbursement from the trust fund for the construction of temporary structures within an arena, stadium, or convention center that are necessary for the preparation, production, performance, and presentation of a film event or temporary maintenance of a facility that is necessary for the preparation, production, performance, and presentation of a film event.

C.S.H.B. 4419 requires TEDTO, on payment of all obligations under an event support contract related to the location of a film event in Texas, to remit to each endorsing entity, in proportion to the amount contributed by the entity, any money remaining in the trust fund.

Local Powers and Duties Relating to Film Events

C.S.H.B. 4419 requires an endorsing entity to provide information required by TEDTO to fulfill its duties regarding the trust fund, including the following:

- annual audited statements of any financial records required by a site selection organization; and
- data obtained by the endorsing entity relating to:
 - attendance at the film event, if the film event is premiered, performed, or otherwise presented exclusively at a venue in Texas, including an estimate of the number of people expected to personally attend the presentation who are not Texas residents;
 - the economic impact of the film event; and
 - any other information TEDTO considers necessary.

The bill requires an endorsing entity to provide any annual audited financial statement required by TEDTO not later than the end of the fourth month after the last day of the period covered by the financial statement.

C.S.H.B. 4419 authorizes an endorsing municipality by ordinance or an endorsing county by order to authorize the issuance of notes in order to meet its obligations under an event support

contract to improve, construct, renovate, or acquire facilities or to acquire equipment. The bill requires such a note to mature not later than the seventh anniversary of the date of issuance and authorizes an endorsing municipality or endorsing county to provide that the notes be paid from and secured by either of the following:

- amounts on deposit or amounts to be transferred or deposited to the trust fund; or
- surcharges from user fees charged in connection with the film event, including parking or ticket fees, if the film event is premiered, performed, or otherwise presented exclusively at a venue in Texas for which parking or ticket fees may be collected.

The bill authorizes money in the trust fund to be used to pay the principal of and interest on the notes and to fulfill obligations of an endorsing municipality, an endorsing county, or the state to a site selection organization under an event support contract. Those obligations may include the payment of the costs relating to the preparation of the film event and the costs of producing, performing, or presenting the film event, including costs of an improvement or renovation to an existing facility and costs of acquisition or construction of a new facility or other facility that could be used to prepare, produce, perform, or present film events.

C.S.H.B. 4419 authorizes an endorsing municipality or endorsing county to guarantee its obligations under an event support contract and the bill by pledging, in addition to tax revenue deposited to the trust fund, surcharges from user fees charged in connection with the film event, including parking or ticket fees, if the film event is premiered, performed, or otherwise presented exclusively at a venue in Texas for which parking or ticket fees may be collected.

General Provisions

C.S.H.B. 4419 defines the following terms for purposes of the film events trust fund:

- "endorsing county" or "endorsing municipality" means a county or municipality, as appropriate, that contains a site selected by a site selection organization for a film event;
- "endorsing entity" means a local organizing committee, endorsing county, or endorsing municipality;
- "event support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by a site selection organization and a local organizing committee, an endorsing municipality, or an endorsing county for a film event;
- "film event" includes the activities necessary to prepare, produce, perform, or present in Texas a television program, movie, virtual film, or any combination of multimedia programs or a series of television programs, movies, virtual films, or multimedia programs, for which an endorsing entity seeks approval from a site selection organization to conduct those activities at a site in Texas, including any activity related to or associated with the preparation, production, performance, or presentation;
- "local organizing committee" means a nonprofit corporation or the corporation's successor in interest that is authorized by an endorsing municipality or endorsing county to:
 - pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of a film event; or
 - execute an agreement with a site selection organization regarding a bid to host a film event; and
- "site selection organization" means a film or television organization that conducts or considers conducting in Texas a film event eligible for funding from the trust fund.

C.S.H.B. 4419, with respect to the construction and implementation of the bill's provisions establishing and governing the trust fund, provides the following:

- the provisions may not be construed as creating or requiring a state guarantee of an obligation imposed on an endorsing municipality, an endorsing county, or the state under an event support contract or another agreement relating to hosting a film event in Texas;
- the provisions must be construed and applied to effectuate the purpose of the trust fund; and

- TEDTO may adopt rules as necessary to implement the provisions and the rules adopted must be prescribed and applied to promote the prescribed purpose for which the trust fund is established.

Film Production Tax Rebate Trust Fund

C.S.H.B. 4419 establishes the film production tax rebate trust fund as a fund outside the state treasury to be held in trust by the comptroller for administration.

Eligibility

C.S.H.B. 4419 makes a film or television production eligible for funding from the trust fund if, after consideration through a competitive selection process, a film or television production organization selects one or more sites in Texas for all or part of the production.

State Actions Relating to Productions

Determination of Incremental Increase in Certain Tax Receipts

C.S.H.B. 4419 requires a production organization, after the organization selects a site or sites for the production for a film or television production, to file an application with the Music, Film, Television, and Multimedia Office and supply information the office considers necessary to determine the incremental increases in the receipts to the state from the following taxes in the designated market area that the office determines are directly attributable to the preparation, production, performance, and presentation of the film or television production:

- the sales and use tax;
- the tax on the sale, rental, and use of motor vehicles;
- the hotel occupancy tax;
- the mixed beverage tax; and
- taxes imposed under the Alcoholic Beverage Code.

The bill requires the office to calculate the incremental increase in those tax receipts not later than the 60th day after the date the necessary documentation is submitted to the office to determine the rebate amount.

Designation of Market Area

C.S.H.B. 4419 requires the office, for purposes of determining the incremental increase in those state tax receipts, to designate for the film or television production a market area where there is a reasonable likelihood of measurable economic impact directly attributable to the preparation, production, performance, or presentation of the production. The bill requires the office to include market areas likely to provide venues, accommodations, and services in connection with the production, based on the application provided to the office.

Contributions

C.S.H.B. 4419 requires the comptroller, not later than the 30th day after notice from the office, and at the direction of the office, to transfer to the trust fund a portion of the state tax revenue in an amount equal to 25 percent of the amount of incremental increases in tax receipts as determined by the office.

Interest

C.S.H.B. 4419 requires any interest accumulated over time to remain in the trust fund for use by the office in paying the costs of administering the trust fund. The office may disburse all or part of the retained interest in the trust fund to the office for that purpose.

Disbursements from Trust Fund

C.S.H.B. 4419 authorizes money in the trust fund to be disbursed by the office without appropriation but only in the manner provided by the bill. The bill requires the office, in accordance with procedures adopted by the office, to make a disbursement from the trust fund to a film or television production organization in an amount equal to 25 percent of the incremental increase in the tax receipts for the applicable film or television production.

Limitations on Funding

C.S.H.B. 4419 establishes that the provisions related to the trust fund are cumulative of all other existing incentive programs or any program created in the future and authorizes a person to receive a reimbursement, disbursement, or rebate under one or more incentive programs. However, the bill prohibits a person from receiving a reimbursement, disbursement, or rebate under the major events reimbursement program, from the film events trust fund, or from the film production tax rebate trust fund that exceeds the highest incremental increase in receipts to the state from the applicable state taxes, as determined by the office, in the market area designated by the office.

General Provisions

C.S.H.B. 4419 defines the following terms for purposes of the trust fund:

- "competitive selection process" means the competitive selection process established by rule of the office for a film or television production organization to use in considering sites for film or television productions;
- "film or television production" means a television program, movie, virtual film, or any combination of multimedia programming produced, filmed, performed, or presented wholly or partly in Texas; and
- "film or television production organization" means an organization that produces a television program, movie, virtual film, or multimedia program, regardless of the manner in which the organization is formed or legally organized, including a production company, a studio, or a production team for a television program, movie, virtual film, or multimedia program.

C.S.H.B. 4419 requires the office to adopt rules necessary to implement the bill's provisions establishing and governing the trust fund and requires that any rules adopted be designed and applied to encourage and incentivize organizations to select a site in Texas to conduct film or television productions. The bill grants the office broad discretion in implementing the bill's provisions establishing and governing the trust fund and in adopting rules necessary for that implementation to allow for the creation of an outstanding and competitive rebate program to attract film or television productions to Texas.

Media Production Development Zones

C.S.H.B. 4419 revises provisions relating to media production development zones as follows:

- with respect to the criteria for an area to be recognized as a media production development zone, removes the requirement for the principal municipality of the metropolitan statistical area in which the area is located to have a population of more than 250,000;
- includes the governing body of an institution of higher education among the entities authorized to nominate a qualifying location within its jurisdiction as a qualified media production location and accordingly classifies such a governing body as a "nominating body";
- authorizes a public institution of higher education to recognize a media production development zone by resolution or order;

- clarifies that a municipality's governing body is the entity that recognizes a media production development zone for a municipality;
- extends from two to four years the maximum duration of the period during which a location may remain designated as a qualified media location, and during which the location may be eligible for the accompanying sales and use tax exemption for items sold to or used to construct, maintain, expand, improve, equip, or renovate media production facilities at media production locations;
- classifies a virtual production facility as a type of media production facility;
- extends the duration of the certification of a person as a qualified person by the Music, Film, Television, and Multimedia Office by changing the date on which that certification ends from the second anniversary of the date the designation is made to the fourth anniversary of that date; and
- establishes that a media production facility or any qualified person is entitled to the benefits under the Media Production Development Zone Act for construction of a media production facility only if the construction begins on or before December 31, 2023.

The bill repeals provisions establishing a maximum number of designated media production development zones and media production locations throughout Texas.

Repealed Law

C.S.H.B. 4419 repeals Section 485A.103, Government Code.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4419 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute set out provisions relating to the promotion of film and television production in Texas, including the eligibility of film or television productions for funding under the major events reimbursement program, the designation of media production development zones, and the establishment of virtual film production institutes. However, the substitute further expands the scope of the bill's provisions by providing for the creation of a film events trust fund for purposes of maximizing the preparation, production, performance, or presentation of television programs, movies, virtual films, and multimedia productions in Texas and for successful competition with other states for those programs, movies, films, and productions and for the creation of a film production tax rebate trust fund to attract film or television productions to Texas.

Both the introduced and the substitute make a film or television production eligible to receive funding under the major events reimbursement program. However, the substitute includes provisions absent from the introduced conditioning the inclusion of such a production as an event eligible for funding on a site selection organization selecting a site in Texas as the sole site for the event, two or more predetermined locations as the sites in Texas for the event, or a site in Texas as the sole site for the event in a region composed of this state and one or more adjoining states. Moreover, the substitute includes a provision not in the introduced expanding the entities classified as a "site selection organization" for purposes of that program to include a film or television production organization. Lastly, the substitute defines the terms "film or television production" and "film or television production organization" for purposes of the program, whereas the introduced did not.

Whereas the introduced expanded the definition of "nominating body" for purposes of provisions relating to the designation of media production development zones to include the governing body of a college or university, the substitute expands that definition to include the governing body of a public institution of higher education. Moreover, the substitute includes a provision not in the introduced specifically authorizing such a governing body to nominate an applicable location within its jurisdiction as a qualified media production location. The substitute also includes a provision absent from the introduced clarifying that a municipality's governing body is the entity that recognizes a media production development zone for a municipality.

Both the introduced and the substitute extend the duration of the certification of a person as a qualified person by the Music, Film, Television, and Multimedia Office for purposes of provisions governing media production development zones. However, whereas the introduced changed the date on which that certification ends from the second anniversary of the date the designation is made to the fifth anniversary of that date, the substitute changes the date on which the certification ends to the fourth anniversary of the date the designation is made.

The substitute includes a provision absent from the introduced establishing that a media production facility or any qualified person is entitled to the benefits under the Media Production Development Zone Act for construction of a media production facility only if the construction begins on or before December 31, 2023.

The substitute omits a provision present in the introduced revising the limitations on certain requests for funding from the events trust fund.

The substitute updates the bill's effective date by omitting the language from the introduced that provided for the possible immediate effect of the bill's provisions if the bill receives the requisite constitutional vote and instead providing only for the bill to take effect September 1, 2023, with no possibility for immediate effect.