

By: Perry

S.B. No. 1613

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Multimedia Production Program; providing tax credits; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 485B. TEXAS MULTIMEDIA PRODUCTION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485B.001. DEFINITIONS. (a) Except as otherwise provided by this chapter, terms used in this chapter have the meanings assigned by Chapters 485 and 485A, and rules adopted under those chapters, as those chapters and rules existed on January 1, 2022.

(b) In this chapter:

(1) "Moving image project" means a visual and sound production, including a film, television program, national or multistate commercial, or education or instructional video. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(2) "Production company" means a film production company, television production company, or film and television production company.

SUBCHAPTER B. TAX CREDIT FOR CERTAIN MULTIMEDIA PRODUCTIONS

Sec. 485B.051. TAX CREDIT PROGRAM. (a) The office shall

1 implement and administer a tax credit program for production
2 companies that produce moving image projects in this state.

3 (b) The office shall develop a procedure by which a
4 production company may apply to the office for a certificate of
5 eligibility for the tax credit program authorized by this
6 subchapter. The procedure must:

7 (1) specify the method by which an applicant must
8 demonstrate that an individual is a Texas resident; and

9 (2) require the submission, before production of a
10 moving image project begins, of:

11 (A) an estimate of the applicant's total in-state
12 spending related to the project;

13 (B) the shooting script or story board, as
14 applicable, for the project;

15 (C) the estimated number of jobs for cast and
16 production crew during the production and completion of the
17 project; and

18 (D) any other information required by the office
19 to determine the amount of in-state spending by the applicant.

20 (c) The office may award a certificate of eligibility to a
21 production company based only on in-state spending by the company
22 that has been verified by the office.

23 (d) The office is not required to act on an application, and
24 shall deny an application, for a production that the office finds to
25 be obscene, as defined by Section 43.21, Penal Code. The office
26 must provide written notice of the finding to the applicant not
27 later than the seventh business day after the date the office makes

1 the finding.

2 (e) The office may not award a certificate of eligibility
3 under this subchapter unless the office:

4 (1) reviews a copy of the final script of the moving
5 image project to which the certificate of eligibility relates; and

6 (2) determines whether a substantial change occurred
7 during production of the moving image project such that the
8 production is ineligible for the certificate under Subsection (d).

9 (f) The office shall include the amount of the tax credit,
10 as determined under Sections 485B.053 and 485B.054, on the face of a
11 certificate of eligibility. An applicant who receives a
12 certificate of eligibility must provide the certificate to the
13 comptroller, along with any other information required by the
14 comptroller, to receive a tax credit under Subchapter O, Chapter
15 171, Tax Code.

16 (g) The office by rule may impose an application fee in an
17 amount sufficient to offset the administrative costs to the office
18 and to the comptroller in administering this chapter.

19 Sec. 485B.052. QUALIFICATION. (a) To qualify for a
20 certificate of eligibility under this subchapter for a moving image
21 project, a production company must:

22 (1) demonstrate to the office that the production
23 company made at least \$15 million in in-state spending for the
24 project;

25 (2) film at least 25 percent of the project in this
26 state, including additional pick-up days and second unit days;

27 (3) submit to the office a ledger of expenses, in a

1 format prescribed by the office, that lists all in-state spending
2 and includes all receipts, invoices, pay orders, and other
3 documentation required by the office to determine the amount of the
4 production company's in-state spending; and

5 (4) meet the requirements of Subsection (b).

6 (b) Unless the office determines and certifies in writing
7 that a sufficient number of qualified crew, actors, and extras are
8 not available to a production company at the time principal
9 photography begins, at least 25 percent of the total number of
10 individuals employed or used as production crew, actors, and extras
11 for a moving image project must be Texas residents.

12 Sec. 485B.053. AMOUNT OF TAX CREDIT. (a) The office shall
13 adopt rules prescribing the method the office will use to calculate
14 the amount of credit to list on a certificate of eligibility awarded
15 to a production company under this subchapter for a moving image
16 project. The office shall publish a written summary of the method
17 the office develops to determine the amount of credit before the
18 date the office begins to award certificates of eligibility.

19 (b) The method adopted by the office under Subsection (a)
20 must provide that the amount of credit listed on a certificate of
21 eligibility awarded to a production company for a moving image
22 project is equal to the sum of:

23 (1) subject to Subsection (c), 30 percent of the
24 production company's in-state spending for the project, not
25 including wages;

26 (2) 20 percent of the wages paid by the production
27 company to individuals who are not Texas residents while working in

1 this state on the project;

2 (3) 35 percent of the wages paid by the production
3 company to Texas residents who do not reside in underutilized and
4 economically distressed areas;

5 (4) 38 percent of the wages paid by the production
6 company to Texas residents who reside in underutilized and
7 economically distressed areas;

8 (5) if applicable, 10 percent of the production
9 company's in-state spending for an episodic television series of
10 three or more episodes for which a completed distribution agreement
11 is provided to the office;

12 (6) if the production company spends at least 25
13 percent of the project's filming days in an underutilized and
14 economically distressed area, 2.5 percent of the production
15 company's in-state spending for the project; and

16 (7) three percent of the production company's in-state
17 spending for post-production activities.

18 (c) The office may not consider the amount described by
19 Subsection (b)(1) when calculating the amount of credit to list on a
20 certificate of eligibility awarded to a production company for a
21 moving image project under Subsection (b) unless the production
22 company provides to the office promotional materials that may be
23 used by the office to promote economic development and tourism in
24 this state, including a promotional video that:

25 (1) uses an image of this state in its end credits; and

26 (2) includes at least:

27 (A) 30 behind-the-scenes stills of the

1 production during principal photography for the project;

2 (B) 10 behind-the-scenes stills of the lead
3 actors during principal photography for the project; and

4 (C) three minutes of behind-the-scenes video
5 footage of principal photography for the project.

6 Sec. 485B.054. REDUCTION OF TAX CREDIT FOR STATE DEBT.

7 Notwithstanding Section 485B.053, the office shall reduce the
8 amount of credit listed on a certificate of eligibility awarded to a
9 production company by an amount equal to any delinquent amount owed
10 by the production company to this state.

11 SECTION 2. Chapter 171, Tax Code, is amended by adding
12 Subchapter O to read as follows:

13 SUBCHAPTER O. TAX CREDIT FOR CERTIFIED TEXAS MULTIMEDIA PRODUCTION
14 PROGRAM

15 Sec. 171.751. DEFINITIONS. In this subchapter:

16 (1) "Certified production" means a media production
17 that is the basis for a certificate of eligibility awarded to a
18 production company under Chapter 485B, Government Code.

19 (2) "Office" means the Music, Film, Television, and
20 Multimedia Office.

21 (3) "Production company" has the meaning assigned by
22 Section 485B.001, Government Code.

23 Sec. 171.752. ELIGIBILITY FOR CREDIT. An entity is
24 eligible to apply for a credit in the amount and under the
25 conditions provided by this subchapter against the tax imposed
26 under this chapter.

27 Sec. 171.753. QUALIFICATION. (a) An entity qualifies for a

1 credit under this subchapter if the entity submits to the
2 comptroller with the application required by Section 171.756:

3 (1) a certificate of eligibility awarded by the
4 office;

5 (2) an audited cost report prepared by a certified
6 public accountant, as defined by Section 901.002, Occupations Code,
7 that itemizes the costs and expenses incurred by a production
8 company to make the certified production and on which the amount of
9 the credit is based; and

10 (3) an attestation from the production company as to
11 the total costs and expenses incurred to make the certified
12 production.

13 (b) An entity that sells or assigns a credit under this
14 subchapter to another entity shall provide a copy of the
15 certificate of eligibility, audited cost report, and attestation to
16 the purchaser or assignee.

17 Sec. 171.754. AMOUNT OF CREDIT; LIMITATIONS. (a) Subject
18 to Subsection (b), the amount of the credit under this subchapter is
19 the amount listed by the office on the certificate of eligibility
20 awarded to a production company for a certified production.

21 (b) The total credit claimed for a report, including the
22 amount of any carryforward under Section 171.755, may not exceed
23 the amount of franchise tax due for the report after any other
24 applicable tax credits.

25 (c) An entity may not claim a credit under this subchapter
26 on a report that is originally due before September 1, 2025.
27 However, before September 1, 2025, an entity may sell or assign a

1 credit for which the entity qualifies under Section 171.753.

2 Sec. 171.755. CARRYFORWARD. (a) If an entity is eligible
3 for a credit that exceeds the limitation under Section 171.754(b),
4 the entity may carry the unused credit forward for not more than
5 five consecutive reports.

6 (b) A carryforward is considered the remaining portion of a
7 credit that cannot be claimed in the current year because of the
8 limitation under Section 171.754(b).

9 Sec. 171.756. APPLICATION FOR CREDIT. (a) An entity must
10 apply to the comptroller for a credit under this subchapter on or
11 with the report for the period for which the credit is claimed.

12 (b) An entity shall submit with an application the
13 information required under Section 171.753 and any other
14 information the comptroller determines is necessary to determine
15 whether the entity qualifies for the credit.

16 (c) The burden of establishing eligibility for and the
17 amount of the credit is on the entity.

18 Sec. 171.757. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
19 awarded a certificate of eligibility by the office may sell or
20 assign all or part of the credit to one or more entities. An entity
21 to which all or part of a credit is sold or assigned may sell or
22 assign all or part of the credit to another entity. There is no
23 limit on the total number of transactions for sale or assignment of
24 all or part of the total credit authorized under this subchapter.

25 (b) An entity that sells or assigns a credit under this
26 section, and the entity to which the credit is sold or assigned,
27 shall jointly submit written notice of the sale or assignment to the

1 comptroller on a form prescribed by the comptroller not later than
2 the 30th day after the date of the sale or assignment. The notice
3 must include:

- 4 (1) the date of the sale or assignment;
5 (2) the amount of the credit sold or assigned;
6 (3) the names and federal tax identification numbers

7 of:

8 (A) the entity that sold or assigned the credit
9 or part of the credit; and

10 (B) the entity to which the credit or part of the
11 credit was sold or assigned;

12 (4) the amount of the credit owned by the selling or
13 assigning entity before the sale or assignment; and

14 (5) the amount of the credit the selling or assigning
15 entity retained, if any, after the sale or assignment.

16 (c) The sale or assignment of a credit under this section
17 does not increase the total amount of the credit that may be
18 claimed. After an entity claims a credit for a production company
19 expenditure that formed the basis for the certificate of
20 eligibility awarded by the office, another entity may not use the
21 same expenditure as the basis for another certificate of
22 eligibility or credit.

23 (d) Notwithstanding the requirements of this subchapter, a
24 credit earned or purchased by, or assigned to, a partnership,
25 limited liability company, S corporation, or other pass-through
26 entity may be allocated to the partners, members, or shareholders
27 of that entity and claimed under this subchapter in accordance with

1 the provisions of any agreement among the partners, members, or
2 shareholders, and without regard to the ownership interest of the
3 partners, members, or shareholders in the certified production,
4 provided that the entity that claims the credit must be subject to
5 the tax imposed under this chapter.

6 (e) An entity to which all or part of a credit is sold or
7 assigned and that is subject to a premium tax imposed under Chapter
8 221, 222, 223, or 224, Insurance Code, may claim all or part of the
9 credit against that tax. The provisions of this subchapter,
10 including provisions relating to the total amount of the credit
11 that may be claimed for a report, the carryforward of the credit,
12 and the sale or assignment of the credit, apply with respect to a
13 credit claimed against a tax imposed under Chapter 221, 222, 223, or
14 224, Insurance Code, to the same extent those provisions apply to a
15 credit claimed against the tax imposed under this chapter. An
16 entity claiming all or part of a credit as authorized by this
17 subsection is not required to pay any additional retaliatory tax
18 levied under Chapter 281, Insurance Code, as a result of claiming
19 that credit.

20 Sec. 171.758. RULES. The comptroller shall adopt rules and
21 forms necessary to implement this subchapter.

22 SECTION 3. Subchapter O, Chapter 171, Tax Code, as added by
23 this Act, applies only to a report originally due on or after
24 September 1, 2025.

25 SECTION 4. This Act takes effect September 1, 2023.