

BILL ANALYSIS

S.B. 22
By: Huffman
Culture, Recreation & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that the Texas Moving Image Industry Incentive program is designed to create jobs and build the Texas economy through the moving image industry. S.B. 22 seeks to keep the program within the office of the governor and provide a statutorily directed biennial deposit to the Texas Moving Image Industry Incentive fund to ensure that funding levels remain consistent for the next decade.

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 Music, Film, Television, and Multimedia Office in SECTIONS 2.02, 2.05, 2.06 of this bill and to the comptroller of public accounts in SECTION 2.08 of this bill. It is the committee's opinion that rulemaking authority is expressly granted to the Music, Film, Television, and Multimedia Office in SECTION 3.03 of this bill effective September 1, 2035.

ANALYSIS

S.B. 22 amends the Government Code to set out provisions relating to the Texas Moving Image Industry Incentive program and the establishment and funding of the Texas Moving Image Industry Incentive fund.

ARTICLE 1. Legislative Intent

S.B. 22 establishes the legislature's intent that the Music, Film, Television, and Multimedia Office is not required to act on any grant application and may deny an application because of inappropriate content or content that portrays Texas or Texans in a negative fashion, as determined by the office, in a moving image project and that the office shall consider general standards of decency and respect for the diverse beliefs and values of the citizens of Texas when determining whether to act on or deny a grant application.

ARTICLE 2. Texas Moving Image Industry Incentive Program; Fund

S.B. 22 establishes the Texas Moving Image Industry Incentive fund as a fund outside the state treasury to be held and invested by the Texas Treasury Safekeeping Trust Company and administered by the Music, Film, Television, and Multimedia Office. The bill authorizes money in the incentive fund to be spent without legislative appropriation and restricts the use of that money to the purposes of awarding Texas Moving Image Industry Incentive program grants and

paying the trust company's expenses of managing the incentive fund's assets. The bill establishes that the incentive fund consists of the following:

- money appropriated, transferred, or deposited to the credit of the incentive fund by the legislature;
- money, including the proceeds of a fee or tax imposed by the state, that by statute is dedicated for deposit to the credit of the incentive fund;
- investment earnings and interest earned on amounts credited to the incentive fund; and
- gifts, grants, and donations made to the office and deposited to the credit of the incentive fund.

S.B. 22 requires the trust company to hold and invest the incentive fund and authorizes the incentive fund to be invested with the state treasury pool and pooled with other state assets for purposes of investment. The bill establishes that the overall objective for the investment of the incentive fund is to maintain sufficient liquidity to meet the needs of the incentive fund while striving to preserve the purchasing power of the incentive fund over a full economic cycle. The bill requires the office to annually provide to the trust company a forecast of the cash flows into and out of the incentive fund and to provide updates to the forecast as appropriate to ensure the trust company is able to achieve the overall objective. The bill authorizes the trust company to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the incentive fund then prevailing, taking into consideration the investment of all the assets of the incentive fund rather than a single investment. The bill requires the expenses of managing the incentive fund's assets to be paid from the incentive fund and requires the trust company to disburse money from the incentive fund as directed by the office.

S.B. 22, with respect to the requirement that the office administer the moving image industry incentive grant program for production companies that produce moving image projects in Texas, specifies that the office is required to do so using money from the incentive fund as an alternative to using gifts, grants, donations, or other money, including appropriations, made available to the office for that purpose. The bill establishes that the following types of projects are not eligible for grants:

- material that is obscene, as those terms are defined under Penal Code provisions relating to public indecency, or pornography;
- news, current event or public access programming, political advertising, including public service announcements that advance a public policy or political position, or programs that include weather or market reports;
- local events or religious services;
- productions not intended for commercial, educational, or instructional distribution;
- sporting events or activities;
- awards shows, galas, or telethons and similar programs that solicit funds;
- projects intended for undergraduate or graduate course credit;
- application software, system software, or middleware;
- casino-type video games and interactive digital media experiences used in a gambling device, as defined by reference to Penal Code provisions relating to gambling; or
- commercials or advertising for Texas or any state agency or department.

The bill establishes that those projects are not an exclusive list of the types of projects that are ineligible for a grant and grants the office broad authority to do the following:

- designate other types of projects as ineligible for a grant;
- elect not to take action on a grant application;
- deny a grant application; or
- award a grant.

S.B. 22 requires the office, as part of the preliminary application process, to review the proposed content of a moving image project in the manner provided by office rule and advise the

prospective applicant whether the content will preclude the project from receiving a grant. The bill removes the requirement for the office, before a grant is awarded, to require a copy of the final script of a project and determine if any substantial changes occurred during production on a moving image project to include content that would preclude the project from being awarded a grant. The bill requires the office instead, once an approved project has been completed, to review the final content before issuing the grant payment to determine if any substantial changes occurred during production on the project to include content that would preclude the project from being awarded the grant, including content described by the bill's provisions. The bill grants the office broad discretion to rescind preliminary approval at any point in the grant process.

S.B. 22, with respect to the conditions under which a project qualifies for a grant under the program, replaces the requirement that at least 55 percent of the production crew, actors, and extras for a moving image project be Texas residents, unless the office determines and certifies in writing that a sufficient number of qualified crew, actors, and extras are not available to the company at the time principal photography begins, with a requirement that, unless the office determines and certifies as such, the percentage of the production crew, actors, and extras for a moving image project who are Texas residents be at least the following:

- 35 percent for a moving image project that begins principal photography on or after September 1, 2025, and before September 1, 2027;
- 40 percent for a moving image project that begins principal photography on or after September 1, 2027, and before September 1, 2029;
- 45 percent for a moving image project that begins principal photography on or after September 1, 2029, and before September 1, 2031; and
- 50 percent for a moving image project that begins principal photography on or after September 1, 2031.

S.B. 22 removes provisions establishing that grants under the program are determined and calculated by office rule, requiring the office to publish a summary of the method for determining grants, and setting out criteria that the method must consider. The bill instead sets out grant amounts as follows:

- for a moving image project that is a feature film, a television program other than a reality television program, or a visual effects project for a feature film or television program other than a reality television program with total in-state spending of:
 - at least \$250,000 but less than \$1 million, the amount of a grant is equal to five percent of total in-state spending for the project;
 - at least \$1 million but less than \$1.5 million, the amount of a grant is equal to 10 percent of total in-state spending for the project; or
 - at least \$1.5 million, the amount of a grant is equal to 25 percent of total in-state spending for the project;
- for a moving image project that is a digital interactive media production with total in-state spending of:
 - at least \$100,000 but less than \$1 million, the amount of a grant is equal to five percent of total in-state spending for the project;
 - at least \$1 million but less than \$1.5 million, the amount of a grant is equal to 10 percent of total in-state spending for the project; or
 - at least \$1.5 million, the amount of a grant is equal to 25 percent of total in-state spending for the project;
- for a moving image project that is a reality television program as defined by office rule with total in-state spending of:
 - at least \$250,000 but less than \$1 million, the amount of a grant is equal to five percent of total in-state spending for the project; or
 - at least \$1 million, the amount of a grant is equal to 10 percent of total in-state spending for the project; or

- for a moving image project that is a commercial, a series of commercials, an educational or instructional video, a series of educational or instructional videos, or a visual effects project for a commercial, series of commercials, educational or instructional video, or series of educational or instructional videos with total in-state spending of:
 - at least \$100,000 but less than \$1 million, the amount of a grant is equal to five percent of total in-state spending for the project; or
 - at least \$1 million, the amount of a grant is equal to 10 percent of total in-state spending for the project.

The bill specifies that the office is authorized to make a grant from the incentive fund in addition to the authorization under current law to make such a grant from appropriated funds.

S.B. 22 establishes that a production company is eligible for the following additional grants:

- a Texas heritage grant in an amount equal to 2.5 percent of total in-state spending for a moving image project that is designated by the office as a Texas heritage project according to rules adopted by the office;
- a rural filming grant in an amount equal to 2.5 percent of total in-state spending for a moving image project for which the production company spends at least 35 percent of the project's filming days or man hours, as applicable and as defined by office rule, in a county in Texas with a population of 300,000 or less;
- a postproduction grant in an amount equal to one percent of total in-state spending for a moving image project for which at least 25 percent of the total in-state spending for the project is spent by the production company during postproduction on eligible expenditures as provided by office rule, including expenditures for labor, vendor, and music costs;
- a Texas veterans grant in an amount equal to 2.5 percent of total in-state spending for a moving image project for which at least five percent of the production crew, actors, and extras for the project are Texas residents who served in and were honorably discharged from:
 - the army, navy, air force, coast guard, or marine corps of the United States;
 - the Texas National Guard; or
 - a reserve component of any such entities; or
- a faith-based moving image project grant in an amount equal to 2.5 percent of total in-state spending for a moving image project that is designated by the office as a faith-based moving image project according to rules adopted by the office.

S.B. 22 does the following with respect to those additional grants:

- establishes that the office is not required to designate any moving image project as a Texas heritage project or faith-based moving image project and has sole discretion to make that designation;
- requires the office, in determining whether to designate a moving image project as a Texas heritage project, to consider the project's current and likely future effect on the promotion of family values and whether the project portrays Texas and Texans in a positive fashion;
- authorizes a moving image project to qualify for and receive more than one additional grant but caps the total amount of all grants received by a moving image project at 31 percent of the total in-state spending for the project; and
- removes the provision establishing that a production company filming in an underutilized and economically distressed area is eligible for a specified grant.

S.B. 22 requires the Music, Film, Television, and Multimedia Office to adopt rules necessary to implement and administer the changes made to the moving industry incentive program by the bill. The bill authorizes the comptroller of public accounts to adopt rules necessary to implement and administer provisions relating to the Texas Moving Image Industry Incentive fund established by the bill.

S.B. 22 amends the Tax Code to require the comptroller, not later than the 30th day of each state fiscal biennium, to deposit \$500 million of the proceeds from the collection of sales and use taxes to the credit of the Texas Moving Image Industry Incentive fund established by the bill.

ARTICLE 3. Sunset Provisions

S.B. 22, effective September 1, 2035, sunsets the provisions governing the Texas Moving Image Industry Incentive program added and revised by the bill, thereby eliminating those added provisions and reverting the revised provisions to current law governing the Texas Moving Image Industry Incentive program as it existed before its amendment by the bill. The bill abolishes the Texas Moving Image Industry Incentive fund on August 31, 2035, and requires the unencumbered and unspent balance of the fund to be transferred to the general revenue fund on that date. Notwithstanding the bill's ARTICLE 3 provisions sunsetting the respective additions and revisions effective September 1, 2035, a grant awarded under the Texas Moving Image Industry Incentive program on or after September 1, 2025, and before September 1, 2035, is governed under the program as amended by its ARTICLE 2 provisions relating to the fund and any subsequent amendments to that law by the legislature in effect on the date the grant is awarded, and that law is continued in effect for that purpose. A grant awarded under the program on or after September 1, 2035, is governed under the program as amended by the bill's ARTICLE 3 sunset provisions.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2025.