SUBJECT: Revising state incentives for media production industries

COMMITTEE: Culture, Recreation, and Tourism — committee substitute recommended

VOTE: 9 ayes — Homer, D. Howard, Dukes, T. King, Kleinschmidt, Kuempel, McCall, Phillips, Thibaut

0 nays

WITNESSES: For — Steve Belsky, I.A.T.S.E. and TXMPA; Garry Brown, 20th Century Fox Television; Rebecca Campbell, Austin Film Society/Austin Studios; JR Flournoy, Don Stokes, Texas Motion Picture Alliance (TXMPA); Rodney Gibbs, Fizz Factor Games; David Holt; Deena Kalai, TXMPA and Reel Women Inc.; Tron Kendrick; Adena Lewis, Smithville Chamber of Commerce; Richard Linklater, Detour Film Production; Brewster McCracken; Sherry Mills; Melissa Patack, Motion Picture Association of America; Shelly Schriber, Film Fleet and TXMPA; Carissa Smith, Omni Austin Hotel Downtown; Stanley Wilson; (*Registered, but did not testify:* Dennis Bishop, Colleen Breen, Murray Campbell, David B. Cernosek, Al Dias, Carlos Fernandez, Jr., Hector Garcia, Renee Hill-Sweet, William Schwarz, Texas Motion Picture Alliance; Chrissy Borskey, General Electric and NBC Universal; Justin Bragiel, Texas Hotel Association; Janis Burkland, Dallas Film Commission; Jim Caldwell, Andre Magcolo Productions; Hunter Carson, Bobby Goldstein Productions; Larry Castro, City of Dallas; Jeffrey Clark, Technology Association of America/ TechAmerica; Glenn Conner, TXMPA and Texas Association of Film and Tape Professionals; Rene Lara, Texas AFL-CIO United Labor Legislative Committee; Emily Mikeska, The Studios at Las Colinas; Jody Richardson, Entertainment Software Association; Kandice Sanaie, Texas Association of Business; John Schrimpf, Panavision Dallas; Pamela Weaver, Weaving Dreams Ent. and TXMPA; Geoff Wurzel, Technet; and 36 others)

Against — (*Registered, but did not testify:* Michael Sullivan, Texans for Fiscal Responsibility)

On — Caroline Frick, Texas Archive of the Moving Image; Bob Hudgins, Texas Film Commission; (*Registered, but did not testify:* Leah Smith)

BACKGROUND:

The 79th Legislature in 2005 established the Film Industry Incentive Program under Government Code, ch. 485, subch. B. The 80th Legislature in 2007 renamed it the Moving Image Industry Incentive Program and funded it for the first time. The program is administered by the Music, Film, Television and Multimedia Office within the Governor's Office and offers grants to qualifying feature films, television programs, commercials, and video games.

To be eligible for a moving image industry incentive grant, a project must:

- generate $1 million in in-state spending for film or television programs, or $100,000 in in-state spending for commercials;
- have a production crew, actors, and extras at least 70 percent of whom are Texas residents; and
- have at least 80 percent of the project filmed in Texas.

Grants may not be more than the lesser of 5 percent of the total amount of a production company's in-state spending for a moving image project or:

- $2 million for a film;
- $2.5 million for a television program;
- $200,000 for a commercial or series of commercials; or
- $250,000 for a video game.

A production company that spends at least 25 percent of its filming days in an underused area — which includes any area other than the metropolitan areas of Dallas or Austin — may receive an additional 1.25 percent of the total amount of the company's in-state spending for the project.

Wages that are a major part of the production costs or are negotiated or spent before production begins may not be included in determining the amount of the grant or the in-state spending.

DIGEST:

CSHB 873 would change the requirements to qualify for a moving image project incentive grant, increase the incentive for filming in certain geographic areas, expand the geographic areas that would qualify a project for additional incentives, and include educational or instructional videos in the incentive program by amending the definition of "moving image project."

Qualifications for grants: CSHB 873 would make the following changes in the requirements to qualify for a moving image project incentive grant:

- lower the minimum amount of in-state spending required for a film or television program from $1 million to $250,000;
- add educational and instructional videos and digital interactive media productions to the list of qualifying productions with a $100,000 in-state spending minimum;
- allow the Music, Film, Television, and Multimedia Office to make an exception to the requirement that 70 percent of the workforce on a project be Texas residents if they determined that there was not a sufficient number of Texas residents to fill the necessary positions; and
- lower the percentage of the project that must be filmed in Texas from 80 percent to 60 percent.

The bill would remove the cap on grant amounts. It also would require the Music, Film, Television, and Multimedia Office to establish, by rule, how grant amounts would be calculated. The rules would have to consider the impact of a project on employment, tourism, and economic activity in this state and the amount of a production company's in-state spending for a moving image project. The Music, Film, Television, and Multimedia Office would have to adopt rules by November 1, 2009, and could not award a grant until the rules were adopted.

In calculating the amount of grants or in-state spending, the wages of a person employed in the production of a moving image project that exceeded $1 million could not be included.

The Music, Film, Television, and Multimedia Office could make grants only from appropriated funds.

Underutilized and economically distressed areas. CSHB 873 would change the term "underused area" to "underutilized and economically distressed area," increase the incentive for filming in these areas to 2.25 percent, and expand the definition of those areas to include any area that the Music, Film, Television and Multimedia Office determined received less than 15 percent of the total film and television production in this state during a fiscal year or had a median household income that was not more than 75 percent of the median state income.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY:

Texas is losing millions of dollars in film, television, commercials, and video game projects to other states, primarily Louisiana, New Mexico, Georgia, and Michigan. As a result, the state is losing high-paying jobs, economic activity, and tax dollars. Since 2003, the Texas Film Commission estimates the state has lost more than $500 million in direct spending and more than 7,000 jobs to other states. Although Texas has created a film incentive program and made some adjustments, the program has proven too modest for investors and production companies to find competitive.

CSHB 873 would provide a more flexible program by decreasing some previous requirements and allowing the Music, Film, Television, and Multimedia Office discretion when awarding grants, rather than strict guidelines that have kept some worthwhile projects from qualifying and resulted in projects going to other states to film. Decreasing spending requirements for film/television projects from $1 million to $250,000 would entice producers to keep work in-state and would qualify independent filmmakers and those in the straight-to-video market. By eliminating the cap on grants, Texas would be better able to attract high-budget productions and would eliminate the disadvantage Texas has in competing with states without caps. The current requirement of 70 percent Texas workforce is too rigid and sometimes impossible to meet with current workforce levels. Decreasing the percentage that must be filmed in Texas from 80 percent to 60 percent would entice more projects to do partial production in Texas.

There would be no risk to the state because payments would be made only after a project was completed in Texas. The current program needs the enhancements provided by CSHB 873 because although the program has been used heavily by producers of television commercials and video games, it has not been effective in stopping the flow of feature films and television programs to states offering more generous percentages.

OPPONENTS SAY:

While increasing media production in Texas is important, the state cannot afford to increase support for what amounts to using taxpayer dollars for a corporate subsidy. The state of Texas is not in the business of moving image production. The industry is made up of private businesses and mainly concentrated in the Dallas and Austin areas. Rather than offer still more grant money to attract the industry to other parts of the state, municipalities could develop more robust incentive packages to attract projects to their areas.

NOTES:

The committee substitute differs from the bill as filed by replacing the term “underused area” with "underutilized and economically distressed area.” The committee substitute would define the new term as “any area of this state that the Music, Film, Television, and Multimedia Office determines receives less than 15 percent of the total film and television production in this state during a fiscal year or that has a median household income that does not exceed 75 percent of the median state household income.”

The committee substitute also added the requirement that the Music, Film, Television, and Multimedia Office could make grants only from appropriated funds.

The companion bill, SB 605 by Deuell, was considered in a public hearing by the Senate Economic Development Committee on March 23.