# REPORT OF THE
# CHIEF LEGISLATIVE ANALYST

DATE: May5,2012

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Gerry F. Miller
Chief Legislative Analyst

12-0002 & 12-0002-S27
Council File No: ~~11-0002-S59~~
Assignment No: 12-01-0034
12-04-0252

SUBJECT: Extension of Film Tax Credits

CLA RECOMMENDATION: Adopt the attached Resolution to include in the City's 2011-2012 State Legislative Program to support and seek amendments to AB 2026 and any legislative or administrative action that would result in extension of the California State Film Tax Credit program through the 2019-2020 fiscal year, expansion of the amount of tax credits available, expansion of the definition of productions that are eligible, and other amendments that allow more types of productions to remain in California.

SUMMARY

Resolution (Perry-LaBonge) seeks to support an extension and expansion of the State film tax credit program, while Resolution (Alarcon-Garcetti-LaBonge) seeks an extension of the State film tax credit program and the inclusion of commercials as an eligible production. Both Resolutions cite increasing competition among States and cities across the nation in providing incentives to attract filming away from Los Angeles. These resolutions note that such competition has resulted in the loss of film production and film jobs in California. They also note that the existing California film tax credit does not provide enough incentive and should be expanded. Both Resolutions recommend that the film tax credit program be extended and expanded.

Since these Resolutions were introduced, AB 2026 (Fuentes) was introduced to extend the California film tax credit. In addition, the State legislature will soon take action on the Governor's proposed budget for FY 2012-2013. Both AB 2026 and the State budget provide opportunities to extend and expand the film tax credit program. It is recommended, then, that the attached revised Resolution be adopted to support AB 2026 and other legislative action that would extend the film tax credit program, as well as seek amendments to expand the size the tax credit pool, expand the types of productions eligible for tax credits, and implement other modifications to the program to increase the number of productions that shoot in California, including additional television productions, larger films, and commercials.

BACKGROUND

The State legislature passed the California Film & Television Tax Credit Program in 2009 in an effort to stem runaway film and television production. Since its implementation, the program has become extremely competitive and credits available annually have diminished.

FilmLA, the City's film permit coordinator, reports that the California Film and Television Tax Credit Program was responsible for an increase in production over the last three years in Los Angeles. But most of the tax credits available in this program have been assigned and it is anticipated that production in Los Angeles will again decline.

In 1997, there were more than 13,000 film production days in the City. Since then, approximately 40 states and many nations have implemented film and television incentive programs, drawing a significant amount of production away from Los Angeles. As a result, there were fewer than 5,000 film production days in Los Angeles in 2009, the year State tax incentives were adopted. Following two years of film tax credits, film production days in the City have risen modestly to 5,700 production days. The size of the tax credit has been effective in stopping the complete loss of film production in the City.

A 2010 study by the Milken Institute documented a change in movie and video industry jobs in California from 1997 to 2008 that resulted in the loss of 10,600 jobs in the entertainment industry and the loss of an additional 26,500 jobs in other sectors that support the entertainment industry. The study attributes a corresponding loss of $2.4 billion in wages and $4.2 billion in real output associated with the loss of these jobs.

**Existing California Film Tax Credit Program**

The California Film Tax Credit program provides qualified taxpayers with a credit against income and/or sales and use taxes, based on qualified expenditures. To be eligible, producers must film at least 75% of their film or television live action production days in California or spend 75% of their production budget in California. The program specifically excludes actors, directors, producers, screenwriters, and similar cost sectors from qualification for tax credits. The program is designed to provide credit for the technical, trade, and service jobs that support film production.

Productions are able to claim a credit against a portion of their total eligible costs. Productions eligible for the 20% credit include feature films with a budget of $1 million to $75 million; movies of the week and miniseries; and new television programs licensed for cable broadcast. Productions eligible for the 25% credit include television series that filmed prior seasons outside California and independent films.

Commercials are not currently included as an eligible production type. The current California Film Tax Credit program is not structured in a way that easily incorporates commercials, due to the types of budgets for commercials, the way production companies are established to produce commercials, and other factors. If a tax credit was to be provided to retain commercial productions, it should be done so independently of the existing Film Tax Credit program.

**Effects on State and Local Budgets**

The State general fund benefits from this tax credit arrangement in that it does not allocate funds to pay the productions. There is no general fund allocation or payment made. The State general fund benefits as a result of people who would not otherwise be working now earning a salary. In addition, the credit only applies to a portion of the total taxes paid, either 20% or 25% depending on the type of production.

Local governments benefit from the retention of film and television productions as well. The State tax credit does not extend to taxes received by local governments, so the City would receive its fair share of sales taxes and gas taxes that would be paid by a production.

The net effect is intended to be an increase in State and local revenue as a result of providing tax relief to productions that would have otherwise left the State. Preliminary data indicate that the program currently meets this objective, as noted below.

**Status of the California Film Tax Credit Program**
The action in 2009 to create the program provided $500 million in total credits available over five years, with the possibility of allocating $200 million in the first year. The California Film Commission (CFC) established program guidelines and opened its first round of credits in 2009.

All 77 applicants received credits that first year. In subsequent years, no more than $100 million in credits were available and applications for credits exceeded the amount available. In 2010, 32 projects received credits and 38 were placed on a wait list. The Headway Project tracked applicants on the 2010 wait list and found that of 14 productions that remained on the list, only five produced their project in California. The remaining nine filmed elsewhere. It should be noted that those nine productions accounted for 91.6% by budget among those on the wait list.

In 2011, 38 applicants received credits and 150 were placed on a wait list.

**Evaluation of Tax Credit Program**
The Los Angeles Economic Development Corporation (LAEDC) produced a report in 2011 that evaluated the economic impact of the California Film Tax Credit program. In that analysis, the first 77 productions that received a tax credit generated an economic output of approximately $3.8 billion with a return of $1.06 in state and local taxes for every dollar of tax credit provided. Various reviews of this data have resulted in differing assessments of return in state and local taxes, ranging from $1.04 to $1.13 return for every dollar of State tax credit provided. But data currently indicate that the California Tax Credit program is effective in generating a return in State and local taxes that is greater than the amount of tax credit provided.

The LAEDC analysis went on to review the impacts of smaller and larger productions. It was determined that tax credits provided to larger productions provided a greater return in state and local taxes than did smaller productions. The Headway Project reported similar findings concerning the impacts of larger and smaller productions.

**Tax Credit Program Adjustments**
Several adjustments have been identified as a means to increase participation in the film tax credit program: increase the annual allocation and allow a broader range of productions to participate in the program, allow credits to be transferred, and ensure that the program is in place for an extended period of time to create a stable, long-term economic environment for film and television production.

The program currently has an annual limit of $100 million. An increase in the amount of tax credit available would ensure that more productions are able to participate in the program, bring more productions to California, and create more jobs. The Headway Project recommends increasing the amount to $200 million, which is the amount of tax credits provided in the first year of the program. But more tax credits may be appropriate considering the 80% rejection rate among applicants for the tax credit. The State should be encouraged to establish an amount of tax credits to ensure at least 50% participation among tax credit applicants.

The film tax credit program currently limits the types of productions that are eligible to participate. Films with budgets in excess of $75 million are currently not eligible to participate in the program and these productions are no longer filming in California. Analysis by LAEDC and The Headway Project indicate that it is important to keep these productions in California as they have a greater impact on job creation and increase the economic impact of these tax credits.

As noted earlier, the California film tax credit was designed to attract small feature films and cable drama productions. At the time, most hour drama programs were filmed in California. But recent trends have shown that hour dramas are increasingly leaving California. Hour dramas with a run of 22 to 26 episodes provide long-term jobs. With the increased competition for this segment of the production market, the California film tax credit program should be revised to ensure that these productions are also eligible to participate in the program.

It should be noted that any effort to increase the number of productions eligible for the tax credit program should be combined with an increase in the overall amount of tax credits available.

Finally, the California tax credit program should be designed for long-term implementation. The business model for an hour drama program requires certainty that tax credits will be available over several years. Year-to-year renewal of the program reduces long-term certainty for a production, providing incentive for the production to seek credits from jurisdictions that are willing to make a long-term commitment.

<u>BILL STATUS</u>

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| 4/17/2012 | Passed Assembly Comm. on A.,E.,S.,T., & I.M. |
| 3/08/2012 | Referred to Coms. on REV. & TAX. and A.,E.,S.,T., & I.M. |
| 2/23/2012 | Read first time. |

John Wickham
Analyst

Attachment: Resolution to Support AB 2026
Resolution (Perry-LaBonge)
Resolution (Alarcon-Garcetti-LaBonge)

**RESOLUTION**

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Los Angeles has long been considered the entertainment capitol of the world, home to studios, post-production facilities, a myriad of outdoor locations and the most talented and well-trained creative and technical workers in the field; and

WHEREAS, in the last decade, other countries and states have adopted film and television tax incentives, including New York which provides $420 million annually to draw productions away from Los Angeles and California; and

WHEREAS, according to the LA Economic Development Center (LAEDC), the Entertainment Industry employs directly more than 117,000 people generating upwards of $38 billion annually in LA County, and the loss of film production has a dramatic impact on the local economy, affecting over one hundred thousand families and individuals directly and indirectly employed by the industry in Los Angeles, reducing the City's tax base and hurting our economic stability; and

WHEREAS, in its most recent report on film production in Los Angeles, FilmLA reported that there was a decrease in television productions this year as the Los Angeles region lost production of ten one-hour TV Drama series to other states, notably New York, which is having a record television season now that it offers more than four times the amount of funding available in filming tax credits than California; and

WHEREAS, the State legislature last year passed AB 1069 to extend the California film tax credit program for one year, adding another $100 million to the pool of incentives available to retain film and television production in the State; and

WHEREAS, although helpful, the current State tax credit is not adequate to ensure that California competes for film and television production and more must be done to retain and attract new entertainment industry jobs to the region, nor does it provide long-term certainty to the entertainment industry that California is serious about retaining this industry; and

WHEREAS, the legislature must pass new legislation to extend the film tax incentive for at least five more years, increase the amount available for productions, and expand the definition of eligible productions to ensure that more television productions, larger film productions, and commercials obtain the incentives necessary to film in California.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2011-2012 State Legislative Program SUPPORT AND SEEK AMENDMENTS to AB 2026 and any legislative or administrative action that would result in extension of the California State Film Tax Credit program through the 2019-2020 fiscal year, expansion of the amount of tax credits available, expansion of the definition of productions that are eligible, and other amendments that allow more types of productions to remain in California.

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, last year the State extended by one year a tax incentive to help attract and retain film and television production in California, providing $100 million annually through FY 2013-2014; and

WHEREAS, the State tax credit for film and television production has had a major impact in helping the film industry remain in California despite efforts by cities, states, and nations around the world to steal away this critical industry; and

WHEREAS, although the State tax credit has been successful in providing incentives for larger film productions to remain, it does not provide adequate incentives for most smaller productions, including commercial production; and

WHEREAS, the Association of Independent Commercial Producers (AICP) report that their industry creates over $5 billion in economic impact, that over 84% of all commercials are live action productions, and that well over half of all productions shoot in California; and

WHEREAS, the state legislature in New York recently voted to extend their state's successful Empire State Commercial Production Tax Credit program through 2015; funded at $7 million annually; and

WHEREAS, the Los Angeles City Council passed changes to the City's Entertainment Production Cap ordinance in 2009, lowering tax liability for hundreds of small and medium sized companies filming in Los Angeles; and

WHEREAS, the difficult economy and the lure of incentives are significantly hurting the commercial production sector of California's film industry; and

WHEREAS, additional reforms to the State's film and television tax credit program and other incentives are necessary to help retain and attract commercial production in California.

NOW THEREFORE BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2012-2013 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would extend and expand State tax credits for filming, and expand these credits to attract and retain a broader range of productions, including commercial productions.

Presented by: [signature]
RICHARD ALARCÓN
Councilmember, 7th District

[signature]
ERIC GARCETTI
Councilmember, 13th District

MAR 16 2012

Seconded by: [signature]

INTERGOVERNMENTAL RELATIONS

# RESOLUTION

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WHEREAS, in its most recent report on film production in Los Angeles, FilmLA reported that there was a decrease in television productions this year as the Los Angeles region lost production of ten one-hour TV Drama series to other states, notably New York, which is having a record television season now that it offers more than four times the amount of funding available in filming tax credits than California; and

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WHEREAS, although helpful, the current State tax credit is not adequate to ensure that California competes for film and television production and more must be done to retain and attract new entertainment industry jobs to the region, nor does it provide long-term certainty to the entertainment industry that California is serious about retaining this industry; and

WHEREAS, the legislature must pass new legislation to extend the film tax incentive for at least five more years, increase the amount available for productions, and expand the definition of eligible productions to ensure that more television productions

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2011-2012 State Legislative Program SUPPORT for an extension of the California State Film Tax Credit program through the 2019-2020 fiscal year, including an expansion of the amount of tax credits available and the definition of productions that are eligible, to ensure that more productions and more types of productions are able to remain in California.

PRESENTED BY: ____________________
Jan Perry
Councilmember, 9th District

JAN 10 2012

SECONDED BY: ____________________

jw