REPORT OF THE
CHIEF LEGISLATIVE ANALYST

DATE: January 16, 2013

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

FROM: Gerry F. Miller
Chief Legislative Analyst

Council File No: 12-0002-S83
Assignment No: 13-01-0042

SUBJECT: Extension of Film Tax Credits

CLA RECOMMENDATION: Adopt Resolution (Perry-Parks) to include in the City's 2013-2014 State Legislative Program support of legislation and administrative action which would extend California's current film tax program and would further provide additional film production incentives at a level to match incentives provided by any other location outside of California.

SUMMARY

Resolution (Perry-Parks) seeks to support an extension and expansion of the State film tax credit program. Resolution cites the loss of television production to other states and competition among States and cities across the nation who provide incentives to attract filming away from Los Angeles. Resolution notes that such competition has resulted in the loss of film and television production and the jobs associated with those productions. Resolution therefore recommends that the film tax credit program be extended and expanded.

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.

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.

The LAEDC estimates that the first $200 million in tax credits resulted in $3.9 billion in economic output and 20,000 jobs.

In 2011, 29 applicants received credits out of 176 applicants. This provided an estimated $1.07 billion in aggregate direct spending and supported 8,500 crew members, 3,900 cast members, and 80,000 background players.

In 2012, 27 applicants received credits out of 322 applicants. These tax credits support 2,800 crew members, 2,900 cast members, and 57,000 background players, with $676 million in aggregate direct spending.

The California Film Commission reports that, while the program predominantly supports productions in the greater Los Angeles area, the tax credit program created film and television production jobs throughout the State.

AB 2026 was passed by the Legislature in 2012 and signed by the Governor to extend the State Film Tax Credit for two additional years, to 2017. But there were no additional changes to the program that would allow a wider range of productions to qualify for credits.

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.

John Wickham
Analyst

Attachment: Resolution (Perry-Parks)

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RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

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 have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Los Angeles is losing the core of its TV production to other states; just two of 23 new one-hour TV dramas will be shot in L.A. County, because producers are getting tax credits in other states including New York, North Carolina, Georgia, Hawaii, Pennsylvania, Massachusetts, Tennessee, New Mexico and others; and

WHEREAS, the loss of these productions to other states means a loss of bookings for sound stages, work for costumers, camera operators and caterers needed to put a show on the air; just one 22-episode-a-year network series has a budget of $60 million and generates 840 direct and indirect jobs; and

WHEREAS, the loss to other states of such productions, including feature film production has been a long term trend; the loss has been going on for years, especially in feature film production and fewer than 10% of new network dramas this season are based in Los Angeles, down from 50% in 2010 and nearly 80% in 2005 ---- all of which means a direct impact on the employment base of Los Angeles; and

WHEREAS, the impacts of this trend are being seen across the local film and TV industry, on prop houses and other businesses that rely on production, and it is creating growing hardship for the grips, location managers and other crew members who are finding it harder to get work in the entertainment capital of the world with estimates that at least 30% of production trades union members are unemployed; and

WHEREAS, the International Alliance of Theatrical Stage Employees (IATSE) and other entertainment unions have been asking members of the State Legislature in Sacramento to extend California's film tax credit program, which is set to expire next year and even our current film tax credit program struggles to compete with more generous incentives in other states; the State of New York offers four times as much in tax credits as California and recently tripled the credit for post-production work; and

WHEREAS, action is needed to reverse the of the long-term effects of film production flight: reports estimate that California lost more than 36,000 film industry jobs and $2.4 billion in wages between 1997 and 2008, caused mainly to the effects of runaway production;

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 State Legislative Program support for any legislation and administrative action which would extend California's current film tax credit program and would further provide additional film production incentives at a level to match incentives provided by any other location outside of California.

PRESENTED BY: ______________

JAN C. PERRY
Councilwoman, 9th District

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SECONDED BY: ______________

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