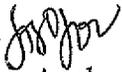


# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: March 20, 2014

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

FROM: Gerry F. Miller   
Chief Legislative Analyst

Council File No: 14-0002-S17, S18  
Assignment No: 14-02-0153

SUBJECT: Extension and Expansion of Film Tax Credits

CLA RECOMMENDATION: Approve the Chief Legislative Analyst report and adopt the attached revised Resolution to include in the City's 2013-2014 State Legislative Program to support AB 1839 and any legislative or administrative action that would result in extension of the California State Film Tax Credit program through the 2020-2021 fiscal year, expansion of the amount of tax credits available to match or exceed competitive tax credit programs, expansion of the definition of productions that are eligible, and other amendments that allow more types of productions to qualify for the program and remain in California.

## SUMMARY

Resolution (Fuentes-Krekorian-Price-O'Farrell) and Resolution (Koretz-Englander-Huizar) each recognize the importance of the film industry to the Los Angeles and California economies. Resolutions identify significant concerns related to the loss of film and television productions to other states, as runaway production has resulted in a significant loss of jobs in California. Both Resolutions identify AB 1839 (Gatto), which extends and expands the California Film Tax Credit program, as a means to address the loss of entertainment industry jobs. Both Resolutions, therefore, recommend support for AB 1839 which allows more television and film productions to participate in the California State Film Tax Credit program and extends the program through the 2021 fiscal year.

## 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 not increased to meet demand.

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 1996, there were nearly 14,000 film production days in the City. Since then, approximately 44 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 four years of film tax credits, film production days in the City have risen modestly to 7,000 production days. The size of the tax credit has been effective in slowing the complete loss of film production and its support services in the City.

A 2013 report from FilmLA indicates that fifteen years ago, 64% of the top 25 live-action films were filmed in California, while only 8% of that category were filmed here in 2013. These films typically have much larger budgets and create many more jobs, both directly on the production and indirectly across the broader economy.

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.

The Milken Institute has released another report, dated February 2014, that shows production employment declines of 16,137 jobs between 2004 and 2012, while New York added over 10,000 jobs in the same period.

#### **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.

### **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. In 2013, 380 applications were received and only 34 received awards.

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, indicating that higher budget films are leaving California.

In 2011, the Governor signed AB 1069 (Fuentes) which extended the film tax credit program through FY 2014-2015.

### **Other Tax Credit Program Adjustments**

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. As noted previously, only 8% of the top 25 live-action features were filmed in California in 2013. All 25 of these productions had budgets greater than \$75 million. AB 1839 would lift the cap on production budget so that all productions would be eligible regardless to the size of the production budget. Although budget size would no longer control eligibility for tax credit participation, the determination of the credit amount would be based on no more than \$100 million of the total budget.

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. This bill would make all new 1-hour television series, regardless to where they are shown, eligible for the program.

Other adjustments to the program provide incentives for existing programs to relocate to California, extend the program for five years, and adjust the determination of eligible production days.

**Tax Credit Amount**

The program currently has an annual limit of \$100 million which will cease in 2015. This amount has become insufficient to meet the demand for credits. As noted above, in FY 2013-2014, 380 applications for tax credits were received, but only 34 projects received awards. The number of applications submitted shows an interest in filming in California. A significant increase in tax credit availability would ensure that more productions remain in California.

A benchmark of note is that the New York tax credit program provides \$420 million a year. California should establish an amount of tax credits that matches or exceeds the New York program. Another approach would be to ensure at least 50% participation among tax credit applicants.

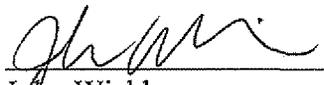
A revised Resolution has been prepared and attached for consideration to ensure that a higher tax credit amount is included in the City's legislative position.

DEPARTMENTS NOTIFIED

The Economic and Workforce Development Department recommends that the City support AB 1839.

BILL STATUS

2/27/2014 Referred to Coms. on REV. & TAX. and A.,E.,S.,T., & I.M.  
2/27/2014 Read first time.

  
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John Wickham  
Analyst

Attachment: Revised Resolution  
Resolution (Fuentes-Krekorian-Price-O'Farrell)  
Resolution (Koretz-Englander-Huizar)

## 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, for nearly a century, Los Angeles has been the center of the film industry, 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, since the late 1990s, many countries and 44 states have created film and television production incentives to draw film and television production activity away from California, including a \$430 million incentive program in New York and a \$229 million incentive program in Louisiana, and handing out more than \$1.5 billion in film and television tax incentives in 2012; and

WHEREAS, according to the Milken Institute, in a reported dated February 2014, California entertainment production employment has declined by 16,137 jobs between 2004 and 2012, while New York added over 10,000 jobs in the same period; and

WHEREAS, in recent years, an increased number of television productions have also been able to take advantage of these incentives, resulting in a loss of television pilots and one-hour TV Drama series to other states, notably New York; and

WHEREAS, since the State legislature passed legislation to establish the California film tax credit program, film production has actually increased in the State, reversing four years of decline, and is estimated to have saved or created as many as 51,000 jobs; 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, AB 1839 (Gatto) would significantly expand the State's tax credit program to include incentives for one-hour television series, allow film productions with larger budgets to qualify, and extend the program through 2021, among other incentives designed to ensure that film and television productions remain in California; and

WHEREAS, AB 1839 must provide tax credits to a broader range of productions in film and television, including big budget live action films, and must expand the amount of tax credits to meet or exceed the incentives offered in other states.

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 2013-2014 State Legislative Program SUPPORT for AB 1839 (Gatto) and any legislative or administrative action that would result in extension of the California State Film Tax Credit program through the 2020-2021 fiscal year, expansion of the amount of tax credits available to match or exceed competitive tax credit programs, expansion of the definition of productions that are eligible, and other amendments that allow more types of productions to qualify for the program and remain in California.

14-002-518

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

RESOLUTION

FEB 21 2014

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 capital 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, since the late 1990s, many countries and 44 states have created film and television production incentives to draw film and television production activity away from California, including a \$430 million incentive program in New York and a \$229 million incentive program in Louisiana, and handing out more than \$1.5 billion in film and television tax incentives in 2012; and

WHEREAS, according to the LA Economic Development Center (LAEDC), the Entertainment Industry employs directly more than 118,000 people, down from 132,000 in 2004, which shows the dramatic impact of the loss of film and television production on the local economy and the tens of thousands of families and individuals directly and indirectly employed by the industry who have lost their jobs as a result; and

WHEREAS, in recent years, an increased number of television productions have also been able to take advantage of these incentives, resulting in a loss of television pilots and one-hour TV Drama series to other states, notably New York; and

WHEREAS, since the State legislature passed legislation to establish the California film tax credit program, film production has actually increased in the State, reversing four years of decline, and is estimated to have saved or created as many as 51,000 jobs; 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

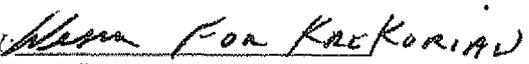
WHEREAS, AB 1839 (Bocanegra-Gatto) would significantly expand the State's tax credit program to include incentives for one-hour television series, allow film productions with larger budgets to qualify, and extend the program through 2021, among other incentives designed to ensure that film and television productions remain 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 2013-2014 State Legislative Program SUPPORT for AB 1839 (Bocanegra-Gatto) which includes an extension of the California State Film Tax Credit program through the 2021 fiscal year and ensures that more productions and more types of productions are able to remain in California.

PRESENTED BY:

  
Felipe Fuentes  
Councilmember, 7<sup>th</sup> District

PRESENTED BY:

  
Paul Krekorian  
Councilmember, 2<sup>nd</sup> District

FEB 21 2014

SECONDED BY:



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