

House Bill 2072

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases amount of maximum total tax credits for certified film production development contributions for fiscal year. Provides for appropriation to Oregon Production Investment Fund for reimbursements of expenses for films or media production services produced or performed outside Portland metropolitan area. Removes limit on amount of expense reimbursement to local filmmaker or local media production services company.

Applies to fiscal years beginning on or after July 1, 2015.

Establishes Task Force on Oregon Film and Media Production. Sunsets task force on date of convening of 2016 regular session of Legislative Assembly.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to media production; creating new provisions; amending ORS 284.367, 284.368 and 315.514;
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 315.514 is amended to read:

6 315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the
7 taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film
8 production development contributions made by the taxpayer during the tax year to the Oregon
9 Production Investment Fund established under ORS 284.367.

10 (2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office,
11 conduct an auction of tax credits under this section. The department may conduct the auction in the
12 manner that it determines is best suited to maximize the return to the state on the sale of tax credit
13 certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount
14 shall be at least 95 percent of the total amount of the tax credit. Moneys necessary to reimburse
15 the department for the actual costs incurred by the department in administering an auction, not to
16 exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The de-
17 partment shall deposit net receipts from the auction required under this section in the Oregon Pro-
18 duction Investment Fund.

19 (b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

20 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
21 [~~\$10~~] **\$20** million are certified for each fiscal year;

22 (B) Maximize income and excise tax revenues that are retained by the State of Oregon for state
23 operations; and

24 (C) Provide the necessary financial incentives for taxpayers to make contributions, taking into
25 consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

26 (3) Contributions made under this section shall be deposited in the Oregon Production Invest-
27 ment Fund.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided
 2 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit
 3 under this section to the extent the amount certified for tax credit, when added to all amounts
 4 previously certified for tax credit under this section, does not exceed [~~\$10~~] **\$20** million for the fiscal
 5 year in which certification is made.

6 (b) The Oregon Film and Video Office and the department are not liable, and a refund of a
 7 contributed amount need not be made, if a taxpayer who has received tax credit certification is
 8 unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

9 (5) To the extent the Oregon Film and Video Office does not certify contributed amounts as el-
 10 igible for a tax credit under this section, the taxpayer may request a refund of the amount the tax-
 11 payer contributed, and the office shall refund that amount.

12 (6)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this
 13 section may not exceed the tax liability of the taxpayer and may not be carried over to another tax
 14 year.

15 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 16 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
 17 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 18 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 19 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
 20 be carried forward for any tax year thereafter.

21 (c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which
 22 the credit would otherwise be allowed begins on or after January 1, 2018.

23 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
 24 the amount shall be allowed without proration under ORS 316.117.

25 (8) If the amount of contribution for which a tax credit certification is made is allowed as a
 26 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
 27 income for Oregon tax purposes.

28 **SECTION 2.** ORS 284.367 is amended to read:

29 284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, sepa-
 30 rate and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund
 31 shall be credited to the fund.

32 (2) Moneys in the Oregon Production Investment Fund shall consist of:

33 (a) Amounts donated to the fund;

34 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

35 (c) Other amounts deposited in the fund from any source; and

36 (d) Interest earned by the fund.

37 (3) [~~Ninety-five~~] **Eighty-seven and one-half** percent of moneys in the fund are continuously ap-
 38 propriated to the Oregon Business Development Department for the purposes of making:

39 (a) Reimbursements to filmmakers under ORS 284.368;

40 (b) Payments to a tax credit marketer for marketing services provided by the marketer as de-
 41 scribed in ORS 284.369; and

42 (c) Refunds described in ORS 315.514 (5).

43 (4)(a) [~~Five~~] **Seven and one-half** percent of moneys in the fund are continuously appropriated
 44 to the department for the purpose of making reimbursements to local filmmakers or local media
 45 production services companies under ORS 284.368 (3). Total annual reimbursements to local media

1 production services companies may not exceed *[five]* 7.5 percent of the moneys deposited annually
2 in the fund.

3 **(b) Five percent of moneys in the fund are continuously appropriated to the department**
4 **for the purpose of making reimbursements for expenses of films or media production ser-**
5 **vices that are produced or performed outside the Portland metropolitan area urban growth**
6 **boundary.**

7 (c) On July 1 of each fiscal year, any moneys that remain unexpended or unallocated from the
8 previous fiscal year may be used by the department for the purpose of making reimbursements to
9 filmmakers under ORS 284.368 (2).

10 **(5) The Oregon Film and Video Office shall by rule establish procedures for the identifi-**
11 **cation of filmmakers or local media production services companies that are eligible for re-**
12 **imbursements as described in subsection (4)(b) of this section.**

13 *[(5)]* (6) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

14 **SECTION 3.** ORS 284.368 is amended to read:

15 284.368. (1) As used in this section:

16 (a) "Actual Oregon expenses" means the costs paid in Oregon for principal photography, pro-
17 duction or postproduction in Oregon of a film, or for media production services, including but not
18 limited to the purchase or rental cost of equipment, food, lodging, real property and permits and
19 payments made for salaries, wages and benefits for work in Oregon.

20 (b) "Film" means a television movie or one or more episodes of a single television series, or a
21 movie produced for release to theaters, video or the Internet. "Film" does not include the production
22 of a commercial or one or more segments of a newscast or sporting event.

23 (c) "Filmmaker" means a person who owns a television or film production company.

24 (d) "Local filmmaker" means a person who owns a television or film production company that
25 has its principal place of business in this state.

26 (e) "Local media production services company" means a media production services company that
27 has its principal place of business in this state.

28 (f) "Media production services" includes postproduction services and interactive video game
29 development. "Media production services" does not include the production of a commercial or one
30 or more segments of a newscast or sporting event.

31 (g) "Media production services company" means a person who is engaged in media production
32 services.

33 (h) "Resident of this state" has the meaning given that term in ORS 316.027.

34 (2)(a) The Oregon Business Development Department may reimburse a filmmaker for a portion
35 of the actual Oregon expenses incurred by the filmmaker.

36 (b) Maximum reimbursement for a single film shall be the total of:

37 (A) 10 percent of payments made for employee salaries, wages and benefits for work done in
38 Oregon; and

39 (B) 20 percent of all other actual Oregon expenses.

40 (c) To qualify for reimbursement under this subsection, total actual Oregon expenses for the film
41 must equal or exceed \$1 million.

42 (3)(a) The department may reimburse a local filmmaker or local media production services
43 company for all or a portion of the actual Oregon expenses^[, up to \$1 million,] incurred by the local
44 filmmaker or local media production services company.

45 (b) To qualify for reimbursement under this subsection:

1 (A) Total actual Oregon expenses paid for the film or media production services must be at least
 2 \$75,000;

3 (B) The local filmmaker or local media production services company must have spent 80 percent
 4 of the film’s payroll on employees who are residents of this state; and

5 (C) The local filmmaker or local media production services company must have employed or
 6 contracted with a public accountant certified under ORS 673.040 for the provision of payroll ser-
 7 vices.

8 (4) Reimbursement under this section shall be made from moneys credited to or deposited in the
 9 Oregon Production Investment Fund during the biennium in which the actual Oregon expenses were
 10 paid or any prior biennium. A reimbursement may not be made to the extent funds are not available
 11 in the fund to make the reimbursement.

12 (5)(a) Total actual Oregon expenses supporting a claim for reimbursement under this section
 13 must be verified by the Oregon Film and Video Office. The filmmaker or local media production
 14 services company must submit to the office proof of the actual Oregon expenses. The proof must
 15 include any documentation that may be required by the office in its discretion to verify the actual
 16 Oregon expenses.

17 (b) The office may charge the filmmaker or local media production services company for costs
 18 reasonably incurred to verify the actual Oregon expenses, including but not limited to the cost for
 19 a review or audit of the supporting documentation by an accountant or auditor. The office may re-
 20 quire the department to deduct the costs incurred by the office in performing its review or audit
 21 from any reimbursement made to the filmmaker or local media production services company under
 22 this section.

23 (c) The office may adopt rules that establish a procedure for the submission and verification of
 24 actual Oregon expenses.

25 **SECTION 4. The amendments to ORS 284.367, 284.368 and 315.514 by sections 1 to 3 of this**
 26 **2015 Act apply to fiscal years beginning on or after July 1, 2015.**

27 **SECTION 5. (1) The Task Force on Oregon Film and Media Production is established,**
 28 **consisting of nine members appointed as follows:**

29 (a) **The President of the Senate shall appoint two members from among members of the**
 30 **Senate.**

31 (b) **The Speaker of the House of Representatives shall appoint two members from among**
 32 **members of the House of Representatives.**

33 (c) **The Governor shall appoint five representatives from the film and media industries.**

34 (2) **The task force shall study options for creating:**

35 (a) **An Oregon-based investment bank designed to finance digital entertainment media**
 36 **products; and**

37 (b) **An Oregon-based cooperative distribution network for media content.**

38 (3) **A majority of the members of the task force constitutes a quorum for the transaction**
 39 **of business.**

40 (4) **Official action by the task force requires the approval of a majority of the members**
 41 **of the task force.**

42 (5) **The task force shall elect one of its members to serve as chairperson.**

43 (6) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**
 44 **ment to become immediately effective.**

45 (7) **The task force shall meet at times and places specified by the call of the chairperson**

1 or of a majority of the members of the task force.

2 (8) The task force may adopt rules necessary for the operation of the task force.

3 (9) The task force shall submit a report in the manner provided by ORS 192.245, and may
4 include recommendations for legislation, to an interim committee of the Legislative Assem-
5 bly related to revenue no later than November 15, 2015.

6 (10) The Oregon Film and Video Office shall provide staff support to the task force.

7 (11) Members of the task force who are not members of the Legislative Assembly are not
8 entitled to compensation, but may be reimbursed for actual and necessary travel and other
9 expenses incurred by them in the performance of their official duties in the manner and
10 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
11 of the task force shall be paid out of funds appropriated to the Oregon Film and Video Office
12 for purposes of the task force.

13 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
14 the task force in the performance of its duties and, to the extent permitted by laws relating
15 to confidentiality, to furnish such information and advice as the members of the task force
16 consider necessary to perform their duties.

17 SECTION 6. Section 5 of this 2015 Act is repealed on the date of the convening of the 2016
18 regular session of the Legislative Assembly as specified in ORS 171.010.

19 SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015
20 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

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