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STATE INCENTIVES FOR THE FILM INDUSTRY

In an effort to increase economic development, states are turning to the film industry as an untapped source of potential revenue. The industry is attractive: U.S. film-goers spent \$9.54 billion at the box office in 2004, according to the Motion Picture Association of America (MPAA). Once thought only the domain of California or New York, state tax incentive programs have lured many productions “off the lot” into states like North Carolina and New Mexico. With the average cost to make and market a motion picture averaging \$98 million according to the MPAA, studios are eager to take advantage of tax incentives and competition to attract the studios has heated up among states, as well as countries such as Canada, Ireland, and New Zealand.

Wisconsin, whose state film office was eliminated in 2005 due to budget constraints, has again begun to market itself to the film industry, as evidenced by the introduction of 2005 Senate Bill 563. Known as the Film Wisconsin Bill, it would offer tax incentives for filming in the state.

SUCCESS IN OTHER STATES

Third only to California and New York, North Carolina has emerged as one of the leading states in the film production industry. In 2004, \$235 million in direct spending and 20,000 production jobs came from the film industry, according to the North Carolina Film Office. The state boasts 17 feature films, 71 TV projects, and numerous commercials just in 2004. Spurred by this influx of revenue and publicity, in August 2005 North Carolina’s governor signed legislation to create tax

incentives for the film industry. The laws allow a production company that spends at least \$250,000 in-state to get a tax credit of 15% for its expenses in the state. The North Carolina Film Office claims that the new credits convinced TV network NBC to produce the series “Surface” in the Wilmington area.

The competition to woo the film industry has become so intense that even California and New York are creating new incentives to keep production in their states. Another hotbed of film activity has been New Mexico, which offers a tax rebate of up to 20% on production expenditures, with no cap on the amount spent. New Mexico also offers 0% loans for up to \$15 million and a 50% wage reimbursement for on-the-job training. Other incentives promoted by the New Mexico Film Office include fee-free state buildings and a Native American Casting Database. According to a FILM Wisconsin fact sheet, New Mexico has seen \$500 million in additional revenue since the passage of film production incentives. New Mexico claims such films as 2005’s “Brokeback Mountain”, “North Country”, “The Longest Yard”, and “Rent”.

In January 2006, the Arizona Department of Commerce announced the introduction of the Motion Picture Production Tax Incentives Program, which would include tax exemptions and credits. The program would stipulate that, to be eligible for credits and exemptions, 50% of a production company’s business must be entailed in producing motion pictures; applicants would have to have an office and bank account in-state; production costs of at least \$250,000 must be

incurred within a 12-month period; and for the first year, at least 25% of the full-time positions must be held by Arizona residents, with the percentage increasing for each subsequent year.

WISCONSIN AND FILM

Wisconsin has welcomed moviemakers since 1916. Communities as diverse as Richland Center, Wisconsin Dells, Madison, Milwaukee, and the Northwoods have hosted production crews. Some of the most recent movies filmed in Wisconsin include "Side Effects" (2004), "Mr. 3000" (2003), "Milwaukee, Minnesota" (2002), "The Straight Story" (1999), and "I Love Trouble" (1994).

Film projects were coordinated through the Wisconsin Film Office until mid-2005. The office, part of the Department of Tourism, was eliminated due to budget cuts and ceased operations July 1, 2005. The office was created in 1987 and functioned as a promoter of the state, a liaison to the film industry with other Wisconsin agencies, and an information clearinghouse on filming in Wisconsin. The tourism department continues to work with the film industry through its other offices. Wisconsin also has several local film offices, located within an area's chamber of commerce or convention and visitor's bureau.

A recently formed group known as FILM Wisconsin is an initiative to promote the state to the film industry. Its task force is made up of local representatives from the film, art, and tourism fields, including those in public service and the private sector. FILM Wisconsin intends to operate as a private sector, not-for-profit corporation overseen by film and television professionals. The group contributed input for the Film Wisconsin Bill.

CURRENT LEGISLATION

2005 Senate Bill 563, introduced by Senators Kanavas, Darling, Kedzie, Lassa, Risser, and Plale in February 2006, would

create income and franchise tax credits for expenses related to film production in the state and credits for capital investments in the state made by a film production company. The language of the bill was mostly based on laws in Illinois and Louisiana.

Income and Franchise Tax Credit. A production company would be able to claim a credit equal to 25% of the salary or wages paid for services rendered in Wisconsin to produce a film, video, video game, commercial, or TV program. These wages would have to be paid during the production stage, the time from the final script to the end of post-production. The employees would have to either be residents of the state or render services in the state. The credit could not exceed the first \$25,000 paid to each employee, excluding the two highest-paid employees. If the total credits equal more than the actual tax liability, that balance could be forwarded for 15 years but would not be refunded by the state.

The tax credit would also be equal to 25% of production expenditures incurred in the state, including: set construction, wardrobe and makeup, photography, sound recording and mixing, lighting, editing and processing, special effects, rental or lease of facilities and equipment, food, and lodging. Music by a resident of the state, or published or distributed by an entity headquartered in the state, air travel purchased by a travel agency headquartered in the state, and insurance purchased from a company headquartered in the state would also be eligible. Expenditures not eligible would include those for distribution and marketing. This portion of the credit would be refundable.

A company could also claim a credit for sales and use taxes on property and services directly related to production in Wisconsin. This portion of the credit is nonrefundable but could also be carried forward for 15 years.

To qualify for the income and franchise tax credit, the project must be an accredited production approved by the Department of Commerce. Salary and wages must total at least \$100,000 for a project 30 minutes or longer, or \$50,000 for a project less than 30 minutes.

Investment Credit. For the first three years that a production company does business in the state, it could claim a tax credit for 15% of the amount paid to purchase tangible personal property or to purchase and repair real property. The expenses would have to be incurred after December 31, 2005. This credit is nonrefundable and can be forwarded for 15 years.

Fiscal Impact. A Department of Revenue fiscal estimate for SB-563 indicates that the loss of revenue to the state as a result of credits given to a production is indeterminate. A hypothetical example provided in the estimate of a production with \$10 million in expenditures, wages of \$50,000 for 100 employees, and 50% of expenditures subject to sales and use taxes, would result in a \$4 million loss in revenue.

According to FILM Wisconsin, 50% of a production's total budget is spent in the community in which it films. FILM Wisconsin also claims that "Mr. 3000", filmed in part in

Milwaukee in 2003, brought almost \$20 million to the local economy.

SB-563 has received positive feedback from Wisconsin-born television stars Jane Kaczmarek and Bradley Whitford, director Jerry Zucker, and Alan J. Bailey, a senior vice president at Paramount Pictures. The bill was recommended for passage on February 14 by the Senate Committee on Job Creation, Economic Development and Consumer Affairs.

FOR MORE INFORMATION

For more information about Wisconsin's proposed film production tax incentives, see 2005 Senate Bill 563 at: www.legis.state.wi.us/2005/data/SB563hst.html

For more information about the FILM Wisconsin initiative, see their Web site at: www.filmwisconsin.net

For more information about the history of film production in Wisconsin, see the archived Web pages of the defunct Wisconsin Film Office at: www.filmwisconsin.org

For links to local film offices see "Wisconsin's Local Film Offices" at: www.filmwisconsin.org/productionguide/localoffices.htm

For statistics on the film industry see the MPAA Web site at: www.mpa.org/researchStatistics.asp