

House Bill 2267

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Film and Video Office)

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**.

Provides that moneys appropriated to Oregon Production Investment Fund for purpose of making reimbursements to local filmmakers may, if unexpended or unallocated at close of previous fiscal year, be used by Oregon Business Development Department for purpose of making reimbursements to filmmakers other than local filmmakers. Increases minimum amount of total actual Oregon expenses required for filmmaker other than local filmmaker to qualify for reimbursement. Increases amount of reimbursement available to local filmmaker. Increases amount of maximum total tax credits for certified film production development contributions for fiscal year.

Applies to fiscal years beginning on or after July 1, 2013.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to film 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 284.367, as amended by section 15, chapter 730, Oregon Laws 2011, is
6 amended to read:

7 284.367. (1) The Oregon Production Investment Fund is established in the State Treasury, separate
8 and distinct from the General Fund. Interest earned by the Oregon Production Investment Fund
9 shall be credited to the fund.

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

11 (a) Amounts donated to the fund;

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

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

14 (d) Interest earned by the fund.

15 (3) Ninety-five percent of moneys in the fund are continuously appropriated to the Oregon
16 Business Development Department for the purposes of making:

17 (a) Reimbursements to filmmakers under ORS 284.368;

18 (b) Payments to a tax credit marketer for marketing services provided by the marketer as described
19 in ORS 284.369; and

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

21 (4) Five percent of moneys in the fund are continuously appropriated to the department for the
22 purpose of making reimbursements to local filmmakers under ORS 284.368 (3). **On July 1 of each
23 fiscal year, any moneys that remain unexpended or unallocated from the previous fiscal year
24 may be used by the department for the purpose of making reimbursements to filmmakers
25 under ORS 284.368 (2).**

26 (5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

27 **SECTION 2.** ORS 284.368 is amended to read:

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.

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

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

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

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

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

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

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

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

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

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

19 (c) To qualify for reimbursement under this subsection, total actual Oregon expenses for the film
20 must equal or exceed [~~\$750,000~~] **\$1 million**.

21 (3)(a) The department may reimburse a local filmmaker for all or a portion of the actual Oregon
22 expenses, **up to \$1 million**, incurred by the local filmmaker.

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

24 (A) Total actual Oregon expenses paid for the film must be at least \$75,000 [~~and less than~~
25 ~~\$750,000~~];

26 (B) The local filmmaker must have spent 80 percent of the film's payroll on employees who are
27 residents of this state; and

28 (C) The local filmmaker must have employed or contracted with a public accountant certified
29 under ORS 673.040 for the provision of payroll services.

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

34 (5)(a) Total actual Oregon expenses supporting a claim for reimbursement under this section
35 must be verified by the Oregon Film and Video Office. The filmmaker must submit to the office proof
36 of the actual Oregon expenses. The proof must include any documentation that may be required by
37 the office in its discretion to verify the actual Oregon expenses.

38 (b) The office may charge the filmmaker for costs reasonably incurred to verify the actual
39 Oregon expenses, including but not limited to the cost for a review or audit of the supporting doc-
40 umentation by an accountant or auditor. The office may require the department to deduct the costs
41 incurred by the office in performing its review or audit from any reimbursement made to the
42 filmmaker under this section.

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

45 **SECTION 3.** ORS 315.514 is amended to read:

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

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

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

15 (A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of
16 [~~\$6~~] **\$12** million are certified for each fiscal year;

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

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

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

23 (4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided
24 in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit
25 under this section to the extent the amount certified for tax credit, when added to all amounts
26 previously certified for tax credit under this section, does not exceed [~~\$6~~] **\$12** million for the fiscal
27 year in which certification is made.

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

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

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

37 (b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
38 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
39 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
40 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
41 succeeding tax year may be carried forward and used in the third succeeding tax year but may not
42 be carried forward for any tax year thereafter.

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

45 (7) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,

1 the amount shall be allowed without proration under ORS 316.117.

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

5 **SECTION 4. The amendments to ORS 284.367, 284.368 and 315.514 by sections 1 to 3 of this**
6 **2013 Act apply to fiscal years beginning on or after July 1, 2013.**

7 **SECTION 5. This 2013 Act takes effect on the 91st day after the date on which the 2013**
8 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

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