
A BILL FOR AN ACT

RELATING TO FILM INDUSTRY DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Chapter 201, Hawaii Revised Statutes, is
3 amended by adding a new section to part IX to be appropriately
4 designated and to read as follows:

5 "§201- Hawaii film advisory council; established. (a)

6 There is established within the department for administrative
7 purposes only the Hawaii film advisory council. The Hawaii film
8 advisory council shall consist of up to thirteen members who
9 shall be appointed by the governor in the manner prescribed in
10 section 26-34, except as otherwise provided in this section, and
11 shall be composed of:

- 12 (1) One representative of each county's film office;
13 (2) One representative of the Hawaii state film office;
14 (3) One member representing the membership of the Hawaii
15 film and entertainment board;
16 (4) One member representing all film industry labor
17 unions;



- 1 (5) One studio production representative;
- 2 (6) One department of education career and technical
- 3 education representative;
- 4 (7) One university or higher education representative;
- 5 (8) One workforce development council representative;
- 6 (9) One entrepreneurial film or media sector business
- 7 representative;
- 8 (10) One Native Hawaiian and Pacific islands cultural
- 9 organization representative; and
- 10 (11) The director of business, economic development, and
- 11 tourism or the director's designee, who shall serve as
- 12 an ex officio, voting member of the council.
- 13 (b) Each member identified in subsection (a) shall have
- 14 experience in the industry they represent in one or more of the
- 15 following fields:
- 16 (1) Film and television production;
- 17 (2) Film commission management;
- 18 (3) Investment and tax credits;
- 19 (4) Production finance and accounting;
- 20 (5) Post-production;



1 (6) Entertainment industry labor union and guild
2 leadership;

3 (7) Hawaii production organization and nonprofit
4 production organization;

5 (8) Workforce and skills development training
6 organization; or

7 (9) Commercial real estate and development.

8 (c) The purpose of the Hawaii film advisory council shall
9 be to:

10 (1) Advise, make recommendations to, and provide industry
11 insights to the department to increase business
12 development, workforce, jobs, and infrastructure in
13 the film industry statewide; and

14 (2) Provide the department with input on setting strategic
15 priorities to accelerate the growth of the film
16 industry.

17 (d) The Hawaii film advisory council shall appoint a
18 chairperson and other leadership positions as deemed necessary
19 from among its members.

20 (e) The Hawaii film advisory council shall make
21 recommendations to the department on the appointment of a film



1 industry development liaison, who shall be exempt from
2 chapter 76."

3 SECTION 2. Section 235-17, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (h) to read:

6 "(h) Every taxpayer claiming a tax credit under this
7 section for a qualified production shall, no later than ninety
8 days following the end of each taxable year in which qualified
9 production costs were expended, submit a written, sworn
10 statement to the department of business, economic development,
11 and tourism that identifies:

12 (1) All qualified production costs as provided by
13 subsection (a), if any, incurred in the previous
14 taxable year;

15 (2) The amount of tax credits claimed pursuant to this
16 section, if any, in the previous taxable year; and

17 (3) The number of total hires versus the number of local
18 hires by category and by county.

19 If the qualified production costs of a taxpayer exceed
20 \$1,000,000 in a taxable year, the written, sworn statement shall
21 be accompanied by an independent third party certification,



1 performed by a qualified certified public accountant, that
2 verifies all representations made for the purpose of claiming
3 the credit under this section. The certification shall be
4 prepared and submitted in accordance with standards and
5 procedures prescribed by the department of business, economic
6 development, and tourism and department of taxation. This
7 information may be reported from the department of business,
8 economic development, and tourism to the legislature pursuant to
9 subsection (i) (4)."

10 2. By amending subsection (o) to read:

11 "(o) For the purposes of this section:

12 "Commercial":

- 13 (1) Means an advertising message that is filmed using
14 film, videotape, or digital media, for dissemination
15 via television broadcast or theatrical distribution;
- 16 (2) Includes a series of advertising messages if all parts
17 are produced at the same time over the course of six
18 consecutive weeks; and
- 19 (3) Does not include an advertising message with
20 Internet-only distribution.



1 "Digital media" means production methods and platforms
2 directly related to the creation of cinematic imagery and
3 content, specifically using digital means, including but not
4 limited to digital cameras, digital sound equipment, and
5 computers, to be delivered via film, videotape, interactive game
6 platform, or other digital distribution media.

7 "Post-production" means production activities and services
8 conducted after principal photography is completed, including
9 but not limited to editing, film and video transfers,
10 duplication, transcoding, dubbing, subtitling, credits, closed
11 captioning, audio production, special effects (visual and
12 sound), graphics, and animation.

13 "Production" means a series of activities that are directly
14 related to the creation of visual and cinematic imagery to be
15 delivered via film, videotape, or digital media and to be sold,
16 distributed, or displayed as entertainment or the advertisement
17 of products for mass public consumption, including but not
18 limited to scripting, casting, set design and construction,
19 transportation, videography, photography, sound recording,
20 interactive game design, and post-production.

21 "Qualified production":



1 (1) Means a production, with expenditures in the State,
2 for the total or partial production of a
3 feature-length motion picture, short film,
4 made-for-television movie, commercial, music video,
5 interactive game, television (inclusive of broadcast
6 and streaming platforms) series pilot, single season
7 (up to twenty-two episodes[+]) for broadcast
8 television; and up to eight episodes for an ongoing
9 series for streaming platforms) of a [~~television~~]
10 series [~~regularly~~] filmed in the State [~~(if)~~]. If the
11 number of episodes per single season for a broadcast
12 series exceeds twenty-two[7] episodes and if a
13 streaming series exceeds eight episodes, additional
14 episodes for the same season shall constitute a
15 separate qualified production[+7]. A "qualified
16 production" also includes a television or streaming
17 platform special, single [~~television~~] episode that is
18 not part of a television or streaming platform series
19 regularly filmed or based in the State, national
20 magazine show, [ex] and national talk show. For the
21 purposes of subsections (d) and (l), each of the



1 aforementioned qualified production categories shall
2 constitute separate, individual qualified productions;
3 and

4 (2) Does not include:

5 (A) News;

6 (B) Public affairs programs;

7 (C) Non-national magazine or talk shows;

8 (D) Televised sporting events or activities;

9 (E) Productions that solicit funds;

10 (F) Productions produced primarily for industrial,
11 corporate, institutional, or other private
12 purposes; and

13 (G) Productions that include any material or
14 performance prohibited by chapter 712.

15 "Qualified production costs" means the costs incurred by a
16 qualified production within the State that are subject to the
17 general excise tax under chapter 237 at the highest rate of tax
18 or income tax under this chapter if the costs are not subject to
19 general excise tax and that have not been financed by any
20 investments for which a credit was or will be claimed pursuant



1 to section 235-110.9. Qualified production costs include but
2 are not limited to:

3 (1) Costs incurred during preproduction such as location
4 scouting and related services;

5 (2) Costs of set construction and operations, purchases or
6 rentals of wardrobe, props, accessories, food, office
7 supplies, transportation, equipment, and related
8 services;

9 (3) Wages or salaries of cast, crew, and musicians;

10 (4) Costs of photography, sound synchronization, lighting,
11 and related services;

12 (5) Costs of editing, visual effects, music, other
13 post-production, and related services;

14 (6) Costs associated with the creation, design, fashion,
15 and accessories products created by Hawaii businesses
16 for use in the production;

17 (7) Costs associated with the contracting and licensing of
18 Hawaii-originated music to be utilized in on-camera
19 use or post-production;

20 [+6] (8) Rentals and fees for use of local facilities and
21 locations, including rentals and fees for use of state



1 and county facilities and locations that are not
2 subject to general excise tax under chapter 237 or
3 income tax under this chapter;

4 [~~(7)~~] (9) Rentals of vehicles and lodging for cast and
5 crew;

6 [~~(8)~~] (10) Airfare for flights to or from Hawaii, and
7 interisland flights;

8 [~~(9)~~] (11) Insurance and bonding;

9 [~~(10)~~] (12) Shipping of equipment and supplies to or from
10 Hawaii, and interisland shipments; and

11 [~~(11)~~] (13) Other direct production costs specified by the
12 department in consultation with the department of
13 business, economic development, and tourism;

14 provided that any government-imposed fines, penalties, or
15 interest that are incurred by a qualified production within the
16 State shall not be "qualified production costs". "Qualified
17 production costs" does not include any costs funded by any
18 grant, forgivable loan, or other amounts not included in gross
19 income for purposes of this chapter.

20 "Streaming platform" means an online provider of media
21 content that delivers the content via internet connection to the



1 subscriber's computer, television, or mobile device through a
2 paid subscription."

3 SECTION 3. Act 143, Session Laws of Hawaii 2017, is
4 amended by amending section 6 to read as follows:

5 "SECTION 6. [~~No later than January 1, 2018, and each~~
6 ~~January 1 thereafter, each film production that has production~~
7 ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~
8 ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~
9 ~~obtain an independent third party certification of qualified~~
10 ~~production costs eligible for the motion picture, digital media,~~
11 ~~and film production income tax credit in the form of a tax~~
12 ~~opinion, as required under section 235-17(h), Hawaii Revised~~
13 ~~Statutes, submitted to the department of business, economic~~
14 ~~development, and tourism.] Repealed."~~

15 SECTION 4. The department of business, economic
16 development, and tourism shall establish one full-time
17 equivalent (1.0 FTE) permanent film industry development liaison
18 position to oversee development of the film industry, which
19 shall be exempt from chapter 76, Hawaii Revised Statutes.

20 PART II



1 SECTION 5. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The civil service to which this chapter applies shall
4 comprise all positions in the State now existing or hereafter
5 established and embrace all personal services performed for the
6 State, except the following:

7 (1) Commissioned and enlisted personnel of the Hawaii
8 National Guard as such, and positions in the Hawaii
9 National Guard that are required by state or federal
10 laws or regulations or orders of the National Guard to
11 be filled from those commissioned or enlisted
12 personnel;

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel
18 to perform the service cannot be obtained through
19 normal civil service recruitment procedures. Any
20 [~~such~~] contract may be for any period not exceeding
21 one year;



- 1 (3) Positions that must be filled without delay to comply
2 with a court order or decree if the director
3 determines that recruitment through normal recruitment
4 civil service procedures would result in delay or
5 noncompliance, such as the Felix-Cayetano consent
6 decree;
- 7 (4) Positions filled by the legislature or by either house
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of
10 the lieutenant governor, and household employees at
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,
14 commission, or other state agency whose appointments
15 are made by the governor or are required by law to be
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries
18 public, land court examiners, court commissioners, and
19 attorneys appointed by a state court for a special
20 temporary service;



1 (9) One bailiff for the chief justice of the supreme court
2 who shall have the powers and duties of a court
3 officer and bailiff under section 606-14; one
4 secretary or clerk for each justice of the supreme
5 court, each judge of the intermediate appellate court,
6 and each judge of the circuit court; one secretary for
7 the judicial council; one deputy administrative
8 director of the courts; three law clerks for the chief
9 justice of the supreme court, two law clerks for each
10 associate justice of the supreme court and each judge
11 of the intermediate appellate court, one law clerk for
12 each judge of the circuit court, two additional law
13 clerks for the civil administrative judge of the
14 circuit court of the first circuit, two additional law
15 clerks for the criminal administrative judge of the
16 circuit court of the first circuit, one additional law
17 clerk for the senior judge of the family court of the
18 first circuit, two additional law clerks for the civil
19 motions judge of the circuit court of the first
20 circuit, two additional law clerks for the criminal
21 motions judge of the circuit court of the first



1 circuit, and two law clerks for the administrative
2 judge of the district court of the first circuit; and
3 one private secretary for the administrative director
4 of the courts, the deputy administrative director of
5 the courts, each department head, each deputy or first
6 assistant, and each additional deputy, or assistant
7 deputy, or assistant defined in paragraph (16);
8 (10) First deputy and deputy attorneys general, the
9 administrative services manager of the department of
10 the attorney general, one secretary for the
11 administrative services manager, an administrator and
12 any support staff for the criminal and juvenile
13 justice resources coordination functions, and law
14 clerks;
15 (11) (A) Teachers, principals, vice-principals, complex
16 area superintendents, deputy and assistant
17 superintendents, other certificated personnel, no
18 more than twenty noncertificated administrative,
19 professional, and technical personnel not engaged
20 in instructional work;



- 1 (B) Effective July 1, 2003, teaching assistants,
2 educational assistants, bilingual/bicultural
3 school-home assistants, school psychologists,
4 psychological examiners, speech pathologists,
5 athletic health care trainers, alternative school
6 work study assistants, alternative school
7 educational/supportive services specialists,
8 alternative school project coordinators, and
9 communications aides in the department of
10 education;
- 11 (C) The special assistant to the state librarian and
12 one secretary for the special assistant to the
13 state librarian; and
- 14 (D) Members of the faculty of the University of
15 Hawaii, including research workers, extension
16 agents, personnel engaged in instructional work,
17 and administrative, professional, and technical
18 personnel of the university;
- 19 (12) Employees engaged in special, research, or
20 demonstration projects approved by the governor;



- 1 (13) (A) Positions filled by inmates, patients of state
- 2 institutions, persons with severe physical or
- 3 mental disabilities participating in the work
- 4 experience training programs;
- 5 (B) Positions filled with students in accordance with
- 6 guidelines for established state employment
- 7 programs; and
- 8 (C) Positions that provide work experience training
- 9 or temporary public service employment that are
- 10 filled by persons entering the workforce or
- 11 persons transitioning into other careers under
- 12 programs such as the federal Workforce Investment
- 13 Act of 1998, as amended, or the Senior Community
- 14 Service Employment Program of the Employment and
- 15 Training Administration of the United States
- 16 Department of Labor, or under other similar state
- 17 programs;
- 18 (14) A custodian or guide at Iolani Palace, the Royal
- 19 Mausoleum, and Hulihee Palace;
- 20 (15) Positions filled by persons employed on a fee,
- 21 contract, or piecework basis, who may lawfully perform



1 their duties concurrently with their private business
2 or profession or other private employment and whose
3 duties require only a portion of their time, if it is
4 impracticable to ascertain or anticipate the portion
5 of time to be devoted to the service of the State;
6 (16) Positions of first deputies or first assistants of
7 each department head appointed under or in the manner
8 provided in section 6, article V, of the Hawaii State
9 Constitution; three additional deputies or assistants
10 either in charge of the highways, harbors, and
11 airports divisions or other functions within the
12 department of transportation as may be assigned by the
13 director of transportation, with the approval of the
14 governor; one additional deputy in the department of
15 human services either in charge of welfare or other
16 functions within the department as may be assigned by
17 the director of human services; four additional
18 deputies in the department of health, each in charge
19 of one of the following: behavioral health,
20 environmental health, hospitals, and health resources
21 administration, including other functions within the



1 department as may be assigned by the director of
2 health, with the approval of the governor; two
3 additional deputies in charge of the law enforcement
4 programs, administration, or other functions within
5 the department of law enforcement as may be assigned
6 by the director of law enforcement, with the approval
7 of the governor; three additional deputies each in
8 charge of the correctional institutions,
9 rehabilitation services and programs, and
10 administration or other functions within the
11 department of corrections and rehabilitation as may be
12 assigned by the director of corrections and
13 rehabilitation, with the approval of the governor; an
14 administrative assistant to the state librarian; and
15 an administrative assistant to the superintendent of
16 education;

17 (17) Positions specifically exempted from this part by any
18 other law; provided that:

19 (A) Any exemption created after July 1, 2014, shall
20 expire three years after its enactment unless



1 affirmatively extended by an act of the
2 legislature; and
3 (B) All of the positions defined by paragraph (9)
4 shall be included in the position classification
5 plan;
6 (18) Positions in the state foster grandparent program and
7 positions for temporary employment of senior citizens
8 in occupations in which there is a severe personnel
9 shortage or in special projects;
10 (19) Household employees at the official residence of the
11 president of the University of Hawaii;
12 (20) Employees in the department of education engaged in
13 the supervision of students during meal periods in the
14 distribution, collection, and counting of meal
15 tickets, and in the cleaning of classrooms after
16 school hours on a less than half-time basis;
17 (21) Employees hired under the tenant hire program of the
18 Hawaii public housing authority; provided that not
19 more than twenty-six per cent of the authority's
20 workforce in any housing project maintained or



- 1 operated by the authority shall be hired under the
2 tenant hire program;
- 3 (22) Positions of the federally funded expanded food and
4 nutrition program of the University of Hawaii that
5 require the hiring of nutrition program assistants who
6 live in the areas they serve;
- 7 (23) Positions filled by persons with severe disabilities
8 who are certified by the state vocational
9 rehabilitation office that they are able to perform
10 safely the duties of the positions;
- 11 (24) The sheriff;
- 12 (25) A gender and other fairness coordinator hired by the
13 judiciary;
- 14 (26) Positions in the Hawaii National Guard youth and adult
15 education programs;
- 16 (27) In the state energy office in the department of
17 business, economic development, and tourism, all
18 energy program managers, energy program specialists,
19 energy program assistants, and energy analysts;
- 20 (28) Administrative appeals hearing officers in the
21 department of human services;



- 1 (29) In the Med-QUEST division of the department of human
2 services, the division administrator, finance officer,
3 health care services branch administrator, medical
4 director, and clinical standards administrator;
- 5 (30) In the director's office of the department of human
6 services, the enterprise officer, information security
7 and privacy compliance officer, security and privacy
8 compliance engineer, security and privacy compliance
9 analyst, information technology implementation
10 manager, assistant information technology
11 implementation manager, resource manager,
12 community/project development director, policy
13 director, special assistant to the director, and
14 limited English proficiency project
15 manager/coordinator;
- 16 (31) The Alzheimer's disease and related dementia services
17 coordinator in the executive office on aging;
- 18 (32) In the Hawaii emergency management agency, the
19 executive officer, public information officer, civil
20 defense administrative officer, branch chiefs, and
21 emergency operations center state warning point



1 personnel; provided that, for state warning point
2 personnel, the director shall determine that
3 recruitment through normal civil service recruitment
4 procedures would result in delay or noncompliance;

5 (33) The executive director and seven full-time
6 administrative positions of the school facilities
7 authority;

8 (34) Positions in the Mauna Kea stewardship and oversight
9 authority;

10 (35) In the office of homeland security of the department
11 of law enforcement, the statewide interoperable
12 communications coordinator; ~~and~~

13 (36) In the social services division of the department of
14 human services, the business technology analyst[-];
15 and

16 (37) In the creative industries division of the department
17 of business, economic development, and tourism, the
18 film industry development liaison.

19 The director shall determine the applicability of this
20 section to specific positions.



1 Nothing in this section shall be deemed to affect the civil
2 service status of any incumbent as it existed on July 1, 1955."

3 PART III

4 SECTION 6. In accordance with section 9 of article VII of
5 the Hawaii State Constitution and sections 37-91 and 37-93,
6 Hawaii Revised Statutes, the legislature has determined that the
7 appropriations contained in Act 164, Regular Session of 2023,
8 and this Act will cause the state general fund expenditure
9 ceiling for fiscal year 2024-2025 to be exceeded by

10 \$ or per cent. This current declaration takes
11 into account general fund appropriations authorized for fiscal
12 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
13 only. The reasons for exceeding the general fund expenditure
14 ceiling are that:

- 15 (1) The appropriation made in this Act is necessary to
16 serve the public interest; and
- 17 (2) The appropriation made in this Act meets the needs
18 addressed by this Act.

19 SECTION 7. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2024-2025 to



1 establish one full-time equivalent (1.0 FTE) film industry
2 development liaison position and associated administrative
3 costs.

4 The sum appropriated shall be expended by the department of
5 business, economic development, and tourism for the purposes of
6 this Act.

7 PART IV

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect on July 1, 3000;
11 provided that sections 2 and 3 shall apply to expenditures made
12 after December 31, 2024.



Report Title:

DBEDT; Hawaii Film Advisory Council; Motion Picture, Digital Media, and Film Production Income Tax Credit; Position; Appropriation; Expenditure Ceiling

Description:

Establishes the Hawaii Film Advisory Council. Amends the motion picture, digital media, and film production income tax credit to: (1) Clarify and amend the requirement for an independent third-party certification; (2) Expand the definition of "qualified production" to include streaming platforms; and (3) Expand the definition of "qualified production costs" to include certain costs associated with products created by Hawaii businesses for use in a production and contracting and licensing of Hawaii-originated music for on-camera use or post-production. Establishes and appropriates funds for a film industry development liaison within the Creative Industries Division of the Department of Business, Economic Development, and Tourism. Effective 7/1/3000. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

