

WY D 80 , Filed

Wyoming

SUMMARY: Relates to economic development; creates the Wyoming film production incentives program; authorizes monetary rebates for qualified productions as specified; provides definitions; imposes auditing requirements as specified; requires rulemaking; provides for penalties; requires reports; provides an appropriation; provides for effective dates.~SAME AS:

Changes in Bill text reflected as:

Text Deleted

Text Added

Text Vetoed

Current Legislative Status

01/07/2022 FILED.

~

session: Wyoming 66th Legislature - Budget Session

cite: 2022 WY D 80

Filed

January 7, 2022

Joint Interim Committee on Travel, Recreation, Wildlife & Cultural Resources

2022

22LSO-0080

Working Draft

0.5

STATE OF WYOMING

HOUSE BILL NO.

Wyoming film production incentives program.

Sponsored by: Joint Travel, Recreation, Wildlife & Cultural Resources

Interim Committee

A BILL

for

AN ACT relating to economic development; creating the Wyoming film production incentives program; authorizing monetary rebates for qualified productions as specified; providing definitions; imposing auditing requirements as specified; requiring rulemaking; providing for penalties; requiring reports; providing an appropriation; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-12-410 through 9-12-414 are created to read:

9 - 12 - 410. Wyoming film production incentives program; creation; purpose; administration; rulemaking.

(a) There is created the Wyoming film production incentives program to be administered by the Wyoming tourism board. The purpose of the program shall be to support economic development by:

(i) Encouraging the use of the state as a site for film and digital entertainment productions and services; and

(ii) Bolstering the visitor economy by promoting the state as a tourist destination.

(b) The Wyoming tourism board may contract with an entity to provide monetary reimbursements in accordance with this act. The sum of all contractual obligations under this act shall not exceed the total appropriation available for the program for any fiscal biennium. The board shall promulgate rules necessary to administer the program consistent with this act. The rules shall include provisions defining the process for applying for monetary rebates under the program, establishing terms by which a contract under this act shall be formulated and executed and establishing rebate amounts and payment methods.

9 - 12 - 411. Definitions.

(a) As used in this act:

(i) "Below-the-line" means the budgeting component of a film or digital entertainment production that accounts for costs that are technical in nature, that do not directly relate to the creative side of a production and includes all crew positions except for producers, directors, screenwriters and the principal cast.

(ii) "Board" means the Wyoming tourism board;

(iii) "Entity" means the person who is applying for monetary rebates under the program for a qualified production;

(iv) "Program" means the Wyoming film production incentives program created under this act, and includes tier 1 or tier 2 of the program as the context requires;

(v) "Qualified expenditures" mean expenditures for goods purchased or leased, or services purchased, leased or employed from a vendor or supplier who is located in and doing business in this state if the expenditure was made in this state and was made for a qualified production. "Qualified expenditures" shall be limited to:

(A) Rents for real and personal property, including rents for lodging, located in this state and required as part of the qualified production;

(B) Costs for food and beverage purchased in the state required as part of the qualified production;

(C) Costs of set construction located in this state;

(D) Costs of supplies, materials and equipment rented or purchased in this state and required as part of the qualified production; and

(E) Below-the-line salaries and employment benefits for services rendered by Wyoming residents as part of a qualified production.

(vi) "Qualified production" means filmed and digital entertainment totally or partially produced and filmed or recorded in this state the criteria specified under tier 1 or tier 2 of the program under W.S. 9-12-412 and that would have widespread public appeal and encourage the use of the state as a site for film and digital video productions and services or would encourage people to visit the state of Wyoming;

(vii) "Wyoming resident" means any natural person who is domiciled in the state of Wyoming for not less than ninety (90) days or who maintains a permanent place of abode within the state and who has not established a domicile in any other state, territory or country;

(viii) "This act" means W.S. 9-12-410 through 9-12-414.

9 - 12 - 412. Wyoming film production incentives program; eligibility; submission of required information.

(a) To the extent funding is available, the board may contract to provide monetary rebates to any entity engaged in making a qualified production in this state in accordance with this act. The program shall be structured into two (2) rebate tiers as provided by subsection (b) of this section and an entity shall be eligible to receive rebates under the program only through one (1) rebate tier per qualified production. A qualified production shall only be eligible for rebates under tier 1 or tier 2 of the program if:

(i) The entity provides the board with a completed application, including the information required under W.S. 9-12-413(a), signed by a person authorized to bind the entity certifying that any information provided to the board has been verified and is correct;

(ii) The entity seeking the rebates keeps accurate records and receipts for all qualified expenditures and on the number of Wyoming residents and Wyoming students hired for the qualified production, which shall include payroll records;

(iii) The entity seeking the rebates develops a detailed distribution plan for the qualified production with circulation estimates, which shall be submitted to the board at the time of application for rebate funds as provided by this act;

(iv) The entity remains in good standing with the department of workforce services under Wyoming employment security law and the Wyoming worker's compensation act; and

(v) The qualified production includes the branded recognition of Wyoming in a form negotiated by the board under the terms of the contract entered into with the entity. The Board may by rule provide exceptions to the requirement imposed under this paragraph.

(b) Subject to the requirements imposed by subsection (a) of this section, the board shall administer the two (2) tiered rebate program as follows:

(i) Tier 1: The board shall administer a traditional media incentive program that provides a total monetary rebate of not more than thirty percent (30%) of qualified expenditures for any qualified production. Only full feature films, streaming and television series, commercials, documentaries, virtual reality products and multi-media and new media campaigns shall qualify for a tier 1 rebate. The rebates authorized under this paragraph shall be subject to the following conditions:

(A) The base rebate on qualified expenditures provided for a qualified production under tier shall be fifteen percent (15%) and shall require the entity to demonstrate:

(I) That the entity spent not less than two hundred thousand dollars (\$200,000.00) in qualified expenditures; and

(II) That not less than one million (1,000,000) viewers are likely to be exposed to the qualified production upon release as substantiated through the entity's distribution plan for the qualified production.

(B) In addition to the fifteen percent (15%) base rebate provided under subparagraph (A) of this paragraph, an entity shall qualify for additional rebates not to exceed the total monetary rebate of thirty percent (30%) as prescribed by this paragraph in the percentages specified and under the following conditions:

(I) A five percent (5%) rebate upon demonstrating that the total number of people employed for the entity's qualified production is comprised of not less than sixty percent (60%) Wyoming residents;

(II) A five percent (5%) rebate upon demonstrating that a qualified production's post production work was primarily physically completed in Wyoming;

(III) A two and one-half percent (2.5%) rebate upon demonstrating that not less than seven million five hundred thousand (7,500,000) viewers are likely to be exposed to the qualified production upon release as substantiated through the entity's distribution plan for the qualified production; and

(IV) A two and one-half percent (2.5%) rebate upon demonstrating that not less than ten percent (10%) of the qualified production's crew were Wyoming resident veterans of the armed forces of the United States or Wyoming students sixteen (16) years of age or older. A Wyoming student shall not be required to also be a Wyoming resident under this subdivision.

(ii) Tier 2: The board shall administer an alternative media incentive program that provides a total monetary rebate of not more than fifteen percent (15%) of qualified expenditures for any qualified production. Only commercials, infomercials, documentaries, short films, webisodes, video games, music videos, content-based mobile apps, virtual reality products, multi-media and new media campaigns, visual effects and standalone post-production work may qualify for a tier 2 rebate. The rebate authorized under this paragraph shall be subject to the following conditions:

(A) The base rebate on qualified expenditures provided for a qualified production under tier shall be ten percent (10%) and shall require the entity to demonstrate:

(I) That the entity spent not less than fifty thousand dollars (\$50,000.00) in qualified expenditures; and

(II) That not less than sixty percent (60%) of the production's crew were Wyoming residents.

(B) In addition to the ten percent (10%) base rebate provided under subparagraph (A) of this paragraph, an entity shall qualify for an additional five percent (5%) rebate, not to exceed the total monetary rebate of fifteen percent (15%) as prescribed under this paragraph, upon demonstrating to the board that the qualified production involves a Wyoming storyline or theme.

9-12-413. Wyoming film production incentives program; application procedure; audit requirements.

(a) An entity may apply for a rebate on a qualified production under tier 1 or tier 2 of the program at times and on forms provided by the board. As part of the application process, the entity shall provide:

(i) A copy of the script or a synopsis for the qualified production;

(ii) A comprehensive list of all qualified expenditures for which the entity intends to seek rebates under tier 1 or tier 2 of the program for the qualified production. The entity shall include the following information as part of the list:

(A) The total dollar amount to be spent in Wyoming including all expenditures on labor;

(B) The total in-state and out-of-state below-the-line payroll figures;

(C) The total number of crew members to be hired that are Wyoming residents, Wyoming resident veterans of the armed forces of the United States or Wyoming students sixteen (16) years of age or older;

(D) The average crew size per day for production preparation and shooting;

(E) The scheduled dates on which production preparation will occur and the total number of preparation days;

(F) The scheduled dates on which production shooting will occur and the total number of days for production shooting;

(G) A detailed list of all Wyoming film locations used for the qualified production, including all cities or towns.

(iii) Proof from the department of workforce services that the entity is in good standing under Wyoming employment security law and the Wyoming worker's compensation act;

(iv) A copy of the entity's most recent Internal Revenue Service Form W9; and

(v) Any other information as specified by rule of the board.

(b) No rebates on qualified expenditures under tier 1 or tier 2 of the program shall be made by the board unless:

(i) The board has approved the entity's application in accordance with W.S. 9-12-412(a)(i) and the rules of the board;

(ii) The qualified production is complete and substantially all contractual commitments made to the board have been fulfilled in accordance with the contract. If a qualified production is not completed according to a reasonable schedule as provided in the contract, the contract shall be terminated; and

(ii) The board has completed an audit of the entity's qualified expenditures to ensure compliance with this act and the rules of the board.

9-12-414. Wyoming film production incentives program; reporting; fraudulent claims.

(a) Beginning with its 2024 biennial budget request submitted under W.S. 9-2-1013, the board shall include a report on expenditures under this act for each the immediately preceding two (2) fiscal years. The reports shall include an explanation of the benefits to the state from the

expenditure of funds and for the rebates authorized by this act.

(b) An entity that obtains payment under this act through a claim that is fraudulent is liable for reimbursement to the board equal to three (3) times the amount paid and for all reasonable costs incurred by the state in investigating the fraudulent claim. The amounts due under this subsection are in addition to any criminal penalty for which the entity is liable for the same acts.

Section 2. W.S. 9-12-1002(a)(iv) is amended to read:

9-12-1002. General powers and duties of the board; rulemaking authority.

(a) The board shall be responsible for implementing the tourism program and functions assigned to the Wyoming business council under the Wyoming Economic Development Act, including the expenditure of all funds appropriated for the tourism program and shall:

(iv) Administer the **Wyoming** film ~~industry financial incentive~~ **production incentives** program as provided in ~~W.S. 9-12-402 through 9-12-406~~ **W.S. 9-12-410 through 9-12-414** .

Section 3. There is appropriated three million dollars (\$3,000,000.00) from the Wyoming tourism reserve and projects account created by W.S. 39-15-111(p)(i)(B) to the Wyoming tourism board for the purposes of administering this act and making the rebate payments required by this act. This appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2024.

Section 4. The Wyoming tourism board shall promulgate rules and regulations necessary to implement this act on or before July 1, 2022.

Section 5.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2022.

(b) Sections 4 and 5 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.