


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 12-0722	Date: July 16, 2012
Prime Sponsor(s): Rep. Massey; Ferrandino Sen. Newell; White	Bill Status: Signed into Law
	Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING FILM PRODUCTION ACTIVITIES IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds		
Colorado Office of Film, Television, and Media Operational Account Cash Fund*	\$50,000	\$25,000
State Expenditures		
General Fund appropriation to the Colorado Office of Film, Television, and Media Operational Account Cash Fund*	\$3.0 million	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor on May 18, 2012 and took effect on July 1, 2012.		
Appropriation Summary for FY 2012-2013: See the State Appropriations section.		
Local Government Impact: None.		

* See the State Revenue and State Expenditures section for a description of moneys that may be collected and obligated from the cash fund.

Summary of Legislation

Effective July 1, 2012, the bill moves the Colorado Office of Film, Television, and Media (OFTM) from the Creative Industries Division to the Colorado Office of Economic Development and International Trade (OEDIT). The bill makes the following changes to the existing film incentive program:

- the maximum incentive payment per employee or contractor is reduced from \$3 million to \$1 million. The payment may be used by a production company to pay the wages or salaries of employees or contractors who participate in production activities;
- creates a loan guarantee program that allows the OFTM, with approval from the Colorado Economic Development Commission, to enter into contracts with production companies to guarantee loans obtained for purposes of financing production activities, up to 20 percent of the entire production budget;

- allows the OFTM to charge a loan guarantee facility fee; and states that any loan guarantee made through the program shall not constitute or become an indebtedness, a debt, or liability of the state, nor shall the loan guarantee the giving, pledging, or loaning of the full faith and credit of the state;
- increases the amount of the performance-based incentive for film production in Colorado from 10 percent to 20 percent of the total amount of the production company's qualified local expenditures;
- in order to qualify for a performance-based incentive, increases the percentage of the workforce that must be comprised of Colorado residents from 25 percent to 50 percent;
- creates the Colorado Office of Film, Television, and Media Operational Account Cash Fund in the State Treasury to consist of moneys appropriated to the fund by the General Assembly, moneys transferred from the Creative Industries Cash Fund, and any gifts, grants, or donations from private or public sources;
- states that moneys in the fund shall be used for both the operation of the OFTM, for performance-based incentives for film production in Colorado, and for the loan guarantee program;
- appropriates \$3.0 million General Fund for FY 2012-13 to the OFTM for allocation to the fund; and
- requires a complete performance audit of the OFTM, the performance-based incentive program for film production, and the loan guarantee program no later than July 1, 2017.

The bill defines "film" to mean any visual or audiovisual work, including a video game, television show, or a television commercial, that contains a series of related images, regardless of the medium by which the work is fixed and from which it can be viewed or reproduced, that is intended to be either: commercially exploited by being shown in theaters or on television licensed for the home or international market; or for internal industrial, corporate, or institutional use. The definition of film does not include an obscene film. The word "obscene" has the same meaning as described in section 18-7-101 (2), C.R.S.

Background

Currently, the Colorado Film Incentive Program offers producers a 10 percent cash rebate for production costs taking place in Colorado. The incentive program covers feature films, television pilots, television series, television commercials, music videos, industrials, documentaries and video game design and creation. To qualify for the program a Colorado production company must have qualified in-state spending of at least \$100,000 on a project while an out-of-state production company must have at least \$250,000 in qualifying expenses. In addition to the qualifying expenses, at least 25 percent of the workforce on every project must be filled by Colorado residents under current law. In order to qualify for a performance-based incentive for Colorado film production activities, a production company must apply for and receive conditional approval from the OFTM prior to beginning production activities in the state.

In addition to the \$3.0 million appropriation in FY 2012-13 to the OFTM, it is anticipated that \$1.25 million in unused funds from the FY 2011-12 appropriation to the Creative Industries Cash Fund will be available to the OFTM without further appropriation for film incentives and loan guarantees in FY 2012-13.

State Revenue

State revenue is expected to increase by \$50,000 to the Colorado Office of Film, Television, and Media Operational Account Cash Fund in FY 2012-13, and by \$25,000 in FY 2013-14. The bill authorizes the OFTM to provide loan guarantees for production activities of up to 20 percent of the entire budget for the production activities. The bill authorizes the OFTM to charge a loan guarantee facility fee based on the risk of the production activities. The fee will be calculated on the outstanding principal. Fee revenue will be deposited in the Colorado Office of Film, Television, and Media Operational Account Cash Fund. If a production company defaults on a loan, moneys paid to satisfy the defaulted loan will be paid from the fund. The OFTM has established a goal of \$1.0 million in loan guarantees in FY 2012-13. Assuming a loan guarantee fee of 5 percent per year with a term of 18 months, loan guarantee fee revenue of \$50,000 is anticipated in FY 2012-13, with an additional \$25,000 in FY 2013-14. Additional loan guarantees in FY 2013-14 will potentially add to fee revenue beginning in FY 2013-14.

State Expenditures

The bill transfers \$3.0 million General Fund to the OFTM on July 1, 2012. These funds, plus an additional \$1.25 million from unexpended appropriations to the Creative Industries Cash Fund for FY 2011-12, will be used for film incentives to reimburse up to 20 percent of qualified local expenditures made by approved production companies for production activities in Colorado. In addition, these funds may be used to back loan guarantees for production activities of up to 20 percent of a production company's expenditures for the production activities.

Office of Film, Television and Media Operating Expenditures. The operation of the OFTM is funded through receipt of 1 percent of the state share of limited gaming tax revenue that is greater than \$19.2 million and less than \$48.5 million. For FY 2011-12, the office received an appropriation of \$240,054 and 4.5 FTE. For FY 2012-13 and FY 2013-14, the office is projected to receive \$188,404, and \$189,932, respectively. The office currently maintains a staff of 2.6 FTE. With this staff, the office is responsible for the following: marketing Colorado as a location for film production activities; assisting production companies in scouting appropriate locations within the state; assisting production companies with state and local permits; serving as a general liaison in coordinating efforts among production companies, government agencies, and local businesses; reviewing and pre-authorizing performance-based incentive applications; and conducting educational seminars to promote the film industry and people working in the Colorado film industry.

This bill adds \$3.0 million in incentive funding and requires that the staff also coordinate and administer loan guarantees between production companies and eligible lenders. These changes to the responsibilities of the office will not require staff or additional resources beyond the existing 2.6 FTE, in part, because the current staff has the expertise to fulfil the modified goals and mission of the office. It is the assessment of this fiscal note that the no additional funding will be necessary to administer the program. Furthermore, any cost associated with contract review by the Department of Law or the State Controller will be accomplished within the existing budgetary resources of the OFTM.

State Auditor. The bill requires a complete performance audit of the OFTM, the performance-based incentive program for film production, and the loan guarantee program by July 1, 2017. Although the audit will be performed within the FY 2016-17 General Fund appropriation to the State Auditor, it should be noted that a performance audit costs the State Auditor an average of \$175,000 per audit.

State Appropriations

The bill transfers \$3.0 million General Fund to the Colorado Office of Film, Television, and Media Operational Account Cash Fund on July 1, 2012. In addition, the bill appropriates \$3.0 million for FY 2012-13 from the cash fund for allocation to economic development programs for the Colorado Office of Film, Television, and Media related to implementation of the bill.

Departments Contacted

Governor's Office State Auditor Law State Treasurer