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AB-3256 California Film Commission. (2017-2018)

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Date Published: 09/07/2018 09:00 PM

Assembly Bill No. 3256

CHAPTER 302

An act to amend Sections 14998, 14998.2, 14998.3, 14998.4, 14998.5, 14998.55, 14998.7, 14998.8, 14998.9, 14998.10, 14998.11, 14998.12, 14998.13, 14999.20, 14999.21, 14999.31, 14999.32, 14999.33, 14999.35, 14999.50, and 14999.55 of, and to repeal Section 14998.6 of, the Government Code, relating to state government.

[Approved by Governor September 07, 2018. Filed with Secretary of State September 07, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3256, Committee on Arts, Entertainment, Sports, Tourism, and Internet Media. California Film Commission.

Existing law, the Motion Picture, Television, and Commercial Industries Act of 1984, establishes within the Governor's Office of Business and Economic Development (GO-Biz), the California Film Commission consisting of 26 members, as provided. Existing law requires the commission, among other duties, to encourage motion picture and television filming in California and to make recommendations to the Legislature, the Governor, GO-Biz, and other state agencies on legislative or administrative actions that may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world markets.

This bill, among other things, would revise and recast those provisions by requiring the commission to have a Board of Commissioners consisting of those 26 members and would assign some of the duties of the commission to the board, as specified. The bill would replace various references to "motion picture and television filming" and "motion picture" in the act and other laws related to the commission with a reference to "media production." The bill would define "media production" to include, but not be limited to, the production of motion pictures, film, digital media, television, commercials, and still photography.

Existing law requires the director of the commission to be the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures. Existing law authorizes the commission to establish fees not to exceed the actual cost of the affected state agency for this purpose, and requires those fees to be deposited in the Film Transfer Account, established in the Special Deposit Fund, for disbursement by the director to reimburse the operating departments for their actual costs.

This bill would instead require each state agency, department, or commission having jurisdiction over a state property to work with the commission to establish fees not to exceed the recovery of costs for state services and property maintenance and to submit the proposed fees in writing to the commission, as provided. The bill would instead require these fees to be collected and recorded by the commission, and would authorize these fees to be deposited in the Film Transfer Account or forwarded to the operating agency, department, or commission for reimbursement to recover costs.

Existing law requires the commission to release annually the number of motion picture starts that occurred within California.

This bill would instead require the commission, through the 2019–20 fiscal year, to annually release a summary report on the status of the Film and Television Tax Credit Program, including any available data related to the increase or decrease of media production in California.

Existing law requires the director of the commission to provide staff support to the commission, and authorizes the director of GO-Biz to assign additional staff on a temporary or permanent basis when needed.

This bill would repeal that provision.

Existing law, as a means to carry out the commission's purposes, establishes in the State Treasury the Film Promotion and Marketing Fund, and requires moneys in the fund to be available for expenditure by the commission upon appropriation by the Legislature. Existing law requires proceeds that accrue to the state from the sales of location library documents, photocopying, and other film-related information documents to be deposited in the fund.

This bill would additionally require sponsorships and donations to be deposited in the fund.

Existing law requires the commission, with input from the motion picture industry and local and state government, to develop and adopt a "model process for granting film permits," as provided. Existing law requires the commission to send each city and county a copy of the model process for granting film permits for local consideration. Existing law, prior to the adoption of, or an amendment to, the written filming policy of a local government, requires the local government to submit a draft of the ordinance or amendment to the Director of the Film Office and requires the Film Office to review drafts submitted and to report its finding to the local government, as provided.

This bill would instead require the local government to submit a draft of the ordinance or amendment to the director of the commission and would require the commission to review drafts submitted and to report its finding to the local government.

Existing law requires the Film Office and its director to encourage the use of a uniform application form, as specified, for obtaining a local permit to engage in film production within the jurisdiction of a county, city, or city and county.

This bill would instead require the commission and its director to encourage the use of a uniform application form for obtaining a local permit to engage in media production.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14998 of the Government Code is amended to read:

14998. (a) This chapter shall be known, and may be cited, as the Motion Picture, Television, and Commercial Industries Act of 1984.

(b) For purposes of this chapter, both of the following shall apply:

(1) "Board" means the Board of Commissioners of the California Film Commission.

(2) "Commission" means the California Film Commission.

(c) For purposes of this part, "media production" includes, but is not limited to, the production of motion pictures, film, digital media, television, commercials, and still photography.

SEC. 2. Section 14998.2 of the Government Code is amended to read:

14998.2. (a) There is in the Governor's Office of Business and Economic Development, the California Film Commission. The commission shall have a Board of Commissioners consisting of 26 members. The Governor shall appoint 13 members, the Senate Committee on Rules shall appoint four members, the Speaker of the Assembly shall appoint four members, and five members shall be ex officio. The members of the board appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries.

All members of the board, except legislators who are appointed either by the Senate Committee on Rules or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) (1) One of the members appointed by the Senate Committee on Rules shall, and another one may, be a Senator and one of the members appointed by the Speaker of the Assembly shall, and another one may, be a Member of the Assembly. These

persons shall be appointed for terms of four years.

(2) Of the legislators appointed to the board, no more than three legislators from the same political party may be appointed to or serve on the board at the same time.

(c) Any legislator appointed shall serve as a voting member of the board and shall meet with, and participate in the activities of, the board to the extent that participation is not incompatible with his or her position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Eight of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a member or employee of a union or guild of motion picture artists.

(2) One shall be a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

(6) (A) One shall be an independent filmmaker.

(B) For purposes of this section, "independent filmmaker" means a producer of a film that meets all of the following criteria:

(i) Has a running time of at least 75 minutes.

(ii) Is intended for commercial distribution to a motion picture theater, directly to the home video market, directly to television, or through the Internet.

(iii) Is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) (A) One shall be a member who is an independent commercial producer, or employee of a trade association representing independent commercial producers.

(B) For purposes of this section, "independent commercial producer" means a producer who owns or is employed by a company that is principally engaged in the physical or digital production of advertising content for advertisers, has control over the selection of production location, deployment, or management of the production equipment, and directly employs the production crew as the person that has control over the hiring and firing of the crew for a commercial production. The company shall not be wholly or partly owned or operated by an advertising agency or an advertiser or be publicly traded. The company shall also not produce any production to which the recordkeeping requirements of Section 2257 of Title 18 of the United States Code apply.

(e) The Director of Transportation shall serve as an ex officio nonvoting member.

(f) The Director of Parks and Recreation shall serve as an ex officio nonvoting member.

(g) The Commissioner of the California Highway Patrol shall serve as an ex officio nonvoting member.

(h) The State Fire Marshal shall serve as an ex officio nonvoting member.

(i) The director of the commission shall serve as an ex officio nonvoting member.

SEC. 3. Section 14998.3 of the Government Code is amended to read:

14998.3. (a) The board shall submit a list of recommended candidates for the position of Director of the California Film Commission to the Governor for consideration. The Governor shall appoint the director.

(b) The director of the commission shall receive a salary to be determined by the Department of Human Resources.

(c) The director of the Governor's Office of Business and Economic Development, or his or her designee, shall act as the director during the absence from the state or other temporary absence, disability, or unavailability of the director, or during a vacancy in

that position.

SEC. 4. Section 14998.4 of the Government Code is amended to read:

14998.4. (a) The board shall meet at least three times per year and shall select a chairperson and a vice chairperson from among its members. The vice chairperson shall act as chairperson in the chairperson's absence.

(b) Each member of the board shall serve without compensation but shall be reimbursed for traveling outside the county in which he or she resides to attend meetings.

(c) The board shall work to encourage media production in California and to that end, shall exercise all of the powers provided in this chapter.

(d) The board shall make recommendations to the Legislature, the Governor, the Governor's Office of Business and Economic Development, and other state agencies on legislative or administrative actions that may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world markets.

(e) In addition, subject to the provision of funding appropriated for these purposes, the board shall do all of the following:

(1) Adopt guidelines for a standardized permit to be used by state agencies and the director.

(2) Approve or modify the marketing and promotion plan developed by the director pursuant to subdivision (d) of Section 14998.9 to promote filmmaking in the state.

(3) Provide expertise in promotional activities.

(4) Hold hearings, as needed.

(5) Adopt its own operational rules and procedures.

(6) Counsel the Legislature and the Governor on issues relating to the media production industry.

SEC. 5. Section 14998.5 of the Government Code is amended to read:

14998.5. The board is authorized to contract for production consultants and appoint an advisory board. No member of the advisory board shall receive any compensation, or use the name of the commission on any letterhead, business card, or identification badge except to the extent that the person is authorized to do so by the board.

SEC. 6. Section 14998.55 of the Government Code is amended to read:

14998.55. The commission shall annually release, through the 2019–20 fiscal year, a summary report on the status of the Film and Television Tax Credit Program established pursuant to Sections 17053.85 and 23685 of the Revenue and Taxation Code, including any available data related to the increase or decrease of media production in California.

SEC. 7. Section 14998.6 of the Government Code is repealed.

SEC. 8. Section 14998.7 of the Government Code is amended to read:

14998.7. Any funds appropriated to, or for use by, the commission for purposes of this chapter, shall be under the control of the Director of the Governor's Office of Business and Economic Development or his or her designee.

SEC. 9. Section 14998.8 of the Government Code is amended to read:

14998.8. (a) The director of the commission shall be the permitting authority for the use of state-owned property and state employee services for the purpose of making commercial motion pictures. Each state agency, department, or commission having jurisdiction over a state property shall work with the commission to establish fees not to exceed the recovery of costs for state services and property maintenance and shall submit the proposed fees in writing to the commission explaining how the fees were calculated, consistent with this section. All fees established pursuant to this section shall be collected and recorded by the commission, and may be deposited in the Film Transfer Account, created in the Special Deposit Fund, or forwarded to the operating agency, department, or commission for reimbursement to recover costs.

(b) The director shall assure a "one-stop" permit process for applications for permission to use state-owned property for media production. In so doing, applications for permission to use state property for making media production shall be made to the director of the commission who, promptly upon receipt of such an application, shall contact the state agency having jurisdiction

over the property specified in the application for the concurrence of the agency in the use of property. The denial of an application may be made on the basis of any of the following:

(1) The use would unduly interfere with the conduct of state business.

(2) Failure of the permittee to provide full insurance coverage and security deposit, if required by the Department of General Services, or the affected agency, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

The use of state property shall be denied, if it is determined that the use would violate or be in conflict with existing provisions of statute or regulation by the director of the department, agency, or commission responding to a permit request.

(c) Any state agency having management and control over state property, the use of which is sought by an application, shall permit the property to be used, unless otherwise denied by the provisions of this section.

(d) Nothing in this section requires a state agency to take any action not authorized by law or to make any decision in a manner or by a method not authorized by law or which is prohibited by law.

(e) If in connection with the use of roads, highways, and freeways, the assistance, control, or protection by California Highway Patrol officers is desired, applications to the director to utilize services of California Highway Patrol officers during media production activities shall be made directly to the Commissioner of the California Highway Patrol. The commissioner may approve the application if employees are available and the agency is fully reimbursed for additional costs incurred. Applications to utilize California Highway Patrol employee services shall be approved or disapproved by the commissioner.

(f) The director, whenever feasible, shall approve or deny any application within 24 hours. In the event that the director of the department or agency having jurisdiction over the property specified in the application permit takes no action to disapprove the application within five working days, the application shall be deemed approved by the director. If the director of the department or agency determines that he or she is unable to concur or deny an application within five working days and so notifies the director within five working days of the application, the director shall then have a total of 10 days from receipt of the application to deny the application. In the event no action is taken by the director within the 10-day period, the application shall be deemed approved by the director.

(g) At least 30 days prior to adoption of state regulations, rules, written guidelines, or policies that would have clear, explicit, and definite implications for media production on state-owned property by a state agency, including any of that agency's district or regional offices, other than for immediate health and safety purposes, the agency shall submit a written copy to the director. The commission shall review the proposal and report its findings to the submitting agency within five working days of receipt of the materials sent. The submitting agency shall consider the commission's findings prior to final adoption of the regulations, rules, written guidelines, or policies, unless the commission's findings are not made available to the submitting agency within the above prescribed time limits. Any and all findings made by the commission pursuant to this section shall be advisory. The submitting agency shall provide the commission with a final written copy of its adopted regulations, rules, written guidelines, or policies.

SEC. 10. Section 14998.9 of the Government Code is amended to read:

14998.9. The director of the commission shall prepare and implement a program to promote media production for the benefit of the state's economy.

Subject to the provision of funding appropriated for these purposes, the program shall do, but shall not be limited to doing, all of the following:

(a) Administer a one-stop permit office, pursuant to subdivision (b) of Section 14998.8, which shall issue permits for the use of state property for filmmaking.

(b) Implement the guidelines or regulations for a standardized permit procedure for all state agencies pursuant to guidelines adopted by the commission under Section 14998.4.

(c) Update and expand the location resource library.

(d) Produce and implement a marketing and promotion plan for media production in California which shall be subject to the approval of the board. The purpose of the plan shall be to design a program for the preparation and distribution of appropriate promotional and informational materials pointing out desirable locations within the state for use in media production, explaining the benefits and advantages of producing motion pictures within the state government, as well as those services available at the local level and within the industry.

(e) Provide tools and best practices to assist local governments to adopt uniform permit procedures and to establish film development offices.

(f) Request and obtain any information from state entities necessary to carry out the purposes of this section.

(g) Accept grant moneys for the purpose of implementing this section.

(h) Accept gifts and donations for the purpose of implementing this section.

SEC. 11. Section 14998.10 of the Government Code is amended to read:

14998.10. It is the intent of the Legislature to encourage local governments to develop uniform procedures for issuing permits and to charge fees for the use of agency property or employee services, which do not exceed the estimated reasonable costs of providing the property or services for which the fees are charged.

It is also the intent of the Legislature to encourage local governments to establish departments which would allow media productions to obtain all the locally required permits at one location.

SEC. 12. Section 14998.11 of the Government Code is amended to read:

14998.11. The commission shall perform the following functions and activities:

(a) Provide staff to the board.

(b) Implement the Cooperative Motion Picture Marketing Plan.

(c) Provide services necessary to increase the amount of filming within California.

(d) Create a navigational link on its Internet Web site labeled "Independent Films." The navigational link shall contain information explaining the qualified motion picture tax credits available to independent films pursuant to Sections 17053.95 and 23695 of the Revenue and Taxation Code. The navigational link shall also contain information relating to the application process and shall highlight that the commission is required to allocate 5 percent of the aggregate amount of credits to independent films.

SEC. 13. Section 14998.12 of the Government Code is amended to read:

14998.12. (a) (1) The commission shall develop and oversee the implementation of a Cooperative Motion Picture Marketing Plan. The plan shall increase the marketing efforts of the commission, and offer state resources to local film commissions and local government liaisons to the film industry for the purpose of marketing their locales to the motion picture industry.

(2) In addition to paragraph (1), the resources offered under the plan for marketing shall be used to recruit local government participation in, and development of, local film commissions.

(3) For purposes of this section, resources offered to local film commissions and local government liaisons to the media production industry shall include all of the following:

(A) Grants for partial or full funding of the cost to develop or participate in workshops, trade shows, seminars, or meetings that assist local governments to promote and market the use of their locales by the motion picture industry. Eligible meetings shall also include those called or approved by the director of the commission to further the purposes of the Cooperative Motion Picture Marketing Plan.

(B) The services of a professional photographer, including material and expenses, to take still photographs of media production locations for inclusion in the location resource library established pursuant to subdivision (c) of Section 14998.9.

(C) Appropriate promotional and informational materials for the purpose of mailing or distributing to the media production industry. The materials shall include, but not be limited to, brochures, print and online ads, and direct marketing materials which state the benefits and advantages of producing media productions within the state or the locales participating in the Cooperative Motion Picture Marketing Plan.

(b) Any resource requested under the provisions of the Cooperative Motion Picture Marketing Plan not specified in this section shall be subject to the approval of the board.

(c) The commission shall expand and upgrade the location resource library through the use of a librarian, a computerized catalog system, and a professional photographer.

(d) As a condition of eligibility for the use of resources pursuant to this section, a local government shall demonstrate substantial compliance with the model process for granting film permits described in Section 14999.20.

(e) The commission shall adopt additional guidelines as needed for the implementation of the plan.

(f) The purpose of the Cooperative Motion Picture Marketing Plan is in no way to discourage, limit, or impede the participation of local governments in the Film Liaisons in California, Statewide, commonly referred to as F.L.I.C.S.

SEC. 14. Section 14998.13 of the Government Code is amended to read:

14998.13. (a) As a means to carry out the California Film Commission's purposes of encouraging and promoting media production in California and maintaining and improving the position of the state's motion picture industry in the national and world markets, there is hereby created in the State Treasury, the Film Promotion and Marketing Fund.

(b) The Treasurer shall invest moneys contained in the Film Promotion and Marketing Fund not needed to meet current obligations in the same manner as other public funds are invested. Interest that accrues from the investments shall be credited to the fund.

(c) Proceeds that accrue to the state from the sales of location library documents, photocopying, and other film-related informational documents, sponsorships, and donations shall be deposited in the fund.

(d) The commission may receive and accept for deposit in the Film Promotion and Marketing Fund moneys from any and all public or private sources that support the purposes within this chapter.

(e) Moneys in the Film Promotion and Marketing Fund shall be available for expenditure by the commission, upon appropriation by the Legislature, for activities performed consistent with the Cooperative Motion Picture Marketing Plan pursuant to Section 14998.12.

SEC. 15. Section 14999.20 of the Government Code is amended to read:

14999.20. The California Film Commission shall, with input from the media production industry and local and state government, develop and adopt a "model process for granting film permits." The process shall contain but not be limited to the following provisions:

(a) A designated person to deal with industry whose responsibilities shall include, but not be limited to:

(1) The attraction of media production to the jurisdiction.

(2) Assistance in expediting to the greatest extent possible the issuances of all use permits necessary for media production.

(b) Maximum time requirements to grant permits.

(c) Permits shall be valid for the period of time necessary to film a specific shot or sequence of shots. Minor additions, corrections, or alterations to a permit shall be made available by way of application for a "rider." Significant changes to the original permit shall require a new permit application.

(d) Coordinating of multijurisdictional filming.

(e) A suggested fee schedule for media production permits which is reasonably related to the cost of providing services occasioned by media production, including administrative, police, fire, sanitation, and other necessary services.

(f) A uniform permit application-permit form.

SEC. 16. Section 14999.21 of the Government Code is amended to read:

14999.21. (a) The California Film Commission shall send to each city and county a copy of the model process for granting film permits for local consideration.

(b) At least 30 days prior to the adoption of or an amendment to the written filming policy of a local government, the local government shall submit a draft of the ordinance or amendment to the director of the commission. The commission shall review drafts submitted to it and report its findings to the local government within five working days of receipt of the draft. The local legislative body shall consider the commission's findings prior to final adoption of the ordinance or amendment unless the commission's findings are not available within the above prescribed time limits. Any and all findings made by the commission pursuant to this section shall be advisory to local government.

(c) Each local government shall provide the commission with a copy of its adopted filming ordinance or amendments.

SEC. 17. Section 14999.31 of the Government Code is amended to read:

14999.31. The California Film Commission and its director shall encourage the use of the uniform application form described in Section 14999.32 for obtaining a local permit to engage in media production within the jurisdiction of a county, city, or city and county. As used for the uniform application form, "film" includes, but is not limited to, feature motion pictures, digital media, television motion pictures, commercials, and still photography. "Production" means the activity of making a film for commercial or noncommercial purposes on property owned by a county, city, or city and county, or on private property within the jurisdiction of a county, city, or city and county.

SEC. 18. Section 14999.32 of the Government Code is amended to read:

14999.32. The uniform film permit application form shall include all of the following provisions:

- (a) The name, address, email, and telephone number of the applicant or duly authorized representative, and, if available, of the director, first assistant director, unit production manager, or location manager.
- (b) The name, email, telephone number, and address of the individual or production company to whom the permit is to be issued.
- (c) The type of the production or project.
- (d) The date(s), time(s), and location(s) (including preparation and striking days).
- (e) A brief description of the proposed filming activity, including any other activity which would affect the use of public facilities in the area.
- (f) An estimate of the number of individuals in cast and crew.
- (g) An estimate of the types and number of vehicles.
- (h) If an applicant intends to use either wild animals, chemicals, explosives, or fire, or intends to engage in any other hazardous activity, a statement to that effect.
- (i) Any additional information the county, city, or city and county deems necessary.

SEC. 19. Section 14999.33 of the Government Code is amended to read:

14999.33. (a) If a county, city, or city and county requires a permit for media production, it is encouraged to use the uniform film permit application form when processing film permit applications.

(b) A completed uniform film permit application which has been approved by the county, city, or city and county shall constitute the local film permit.

SEC. 20. Section 14999.35 of the Government Code is amended to read:

14999.35. No fee which is greater than the actual cost incurred shall be charged by any county, city, city and county, or special district for media production which occurs entirely on private property.

SEC. 21. Section 14999.50 of the Government Code is amended to read:

14999.50. It is the intent of the Legislature to help develop California's media production industry and thereby further strengthen the state's economy by providing surplus government-owned property to media production companies at a low cost.

SEC. 22. Section 14999.55 of the Government Code is amended to read:

14999.55. (a) The State Theatrical Arts Resources (STAR) Partnership is hereby established within the California Film Commission.

(b) The commission shall collaborate with the Department of General Services and other appropriate state agencies in identifying surplus state properties that may be available for use under the partnership.

(c) The commission shall list available properties for the use of filmmakers and location scouts at an interactive Internet Web site, with relevant information about the properties and instructions for contacting the commission and obtaining use of the properties.

(d) The state properties identified under the program shall be made available for media production with a recovery cost, as established by the commission and the Department of General Services or other appropriate state agency. Production companies

shall be responsible for any additional related costs, such as maintenance or electrical costs, that the state incurs because of filming at the property.

(e) The commission shall work with the Film Liaisons in California, Statewide, to establish local STAR partnerships to identify local surplus or unused government property or assets that may be used for media production.