Governor's Office of Business and Economic Development

CALIFORNIA FILM COMMISSION

California Film and Television Job Retention and Promotion Act

Title 10, Chapter 7.5, Article 2, Sections 5508-5516

FINDING OF EMERGENCY

Pursuant to Revenue and Taxation Code Sections 17053.95(g) and 23695(g) the State Legislature has directed the California Film Commission to administer on or after July 1, 2015, a tax credit program that provides a qualified taxpayer a tax credit for qualified expenditures in the production of a qualified motion picture in California for taxable years beginning on or after January 1, 2016.

NECESSITY

The amendment and re-adoption of emergency regulations is necessary to continue implementation of the California Film and Television Job Retention and Promotion Act authorized by Revenue and Taxation Code Sections 17053.95(g) and 23695(g) for the immediate preservation of the public peace, health, safety, and general welfare.

AUTHORITY AND REFERENCE

The proposed regulations have been adopted under the authority of Revenue and Taxation Code section 17053.95(e) and 23695(e) in order to implement, interpret, and make specific Revenue and Taxation Code sections 17053.95(g) and 23695(g).

INFORMATIVE DIGEST

Currently, the California Film and Television Job Retention and Promotion Act (California Film and Television Tax Credit Program 2.0) is operating under emergency regulations that were established on April 13, 2015. Because these emergency regulations are set to expire on October 13, 2015, the California Film Commission is requesting an amendment and re-adoption of the emergency regulations which are substantially similar to those previously adopted in compliance with Government Code 11346.1(h). By implementing the re-adopted emergency regulations, as amended, this will avoid any California Film and Television Job Retention and Promotion Act implementation gaps and ensure the finalized regulations achieve their intended purpose. Emergency promulgation of the proposed regulation is necessary for the immediate preservation of the public peace, health and safety, and general welfare of California and its citizens.

The state of California has suffered significant losses in one of its most prominent and economically successful industries, the motion picture industry. Other states in the United States and other regions in the world are aggressively luring motion picture productions by offering attractive financial incentives. These incentive programs have triggered an exodus of film productions from California which in turn hurts related California businesses that provide the motion picture industry with specialized services, equipment, and facilities.

The California Film and Television Tax Credit Program 2.0 is specifically targeting productions that are most likely to leave the state due to incentives being offered in other states and countries. The Act is assisting California in being competitive again in the film industry, enabling it to increase the number of productions and therefore, jobs and dollars spent in state.

The CFC cannot continue allocating the tax credits, without re-adoption of the regulations that prescribe the procedures and criteria for the program. The next open allocation period is scheduled for November 2015 for new and relocating television series. A re-adoption of the emergency regulations is necessary to prevent a delay in the process of accepting applications and awarding these tax credits. In addition, the allocation of these tax credits is time sensitive, because the statute requires the applicant to apply before the start of filming. Therefore any production companies currently ready to start filming, that are weighing their options to film in states that offer tax incentives, would not consider the option of filming in California without the availability of this new incentive program.

The California Film and Television Tax Credit Program 2.0 will not be able to prevent the loss of every film and TV production in the state, but by avoiding a lapse or delay in implementation of the program, California will at least be able to minimize the harm to its economy. By amending and readopting the emergency regulations, the California Film and Television Tax Credit Program 2.0 can help improve the state's economy and put people back to work.

For the reasons described above, and specifically given that Revenue and Taxation Code Section 17053.95(e)(2) and 23695(e), has deemed that implementation of this section for 2015-16 fiscal year is an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, the CFC is authorized to re-adopt emergency regulations to implement the Act.

The California Film Commission proposes to amend subsections 5508(p) and (u), 5509(k)(5), and 5515(b)(2). While the regulations will continue to establish a procedure for allocating tax credits to qualified taxpayers in the motion picture industry and will clarify and make specific the application and qualification process there were several changes necessary for clarification of the regulations.

Section 5508(p) is amended to include a television pilot in the definition of a Pick-up Order. This was added to avoid providing a tax credit reservation for pilots that have not been ordered (and therefore would not go into production).

Section 5508(u) is amended to also define a production facility as a facility approved by the

CFC.   This allows the CFC to approve facilities that fall outside of the California Fire Code but still are used primarily for production of motion pictures.

Section 5509(h) as been editorially amended to clarify the information that shall be submitted on the online application and to reflect the order in which it is collected.

Section 5509(k)(5) which requires the pick-up order to be submitted with the application, is amended to add a reference to pilots be consistent with the definition change in Section 5508(p).

Section 5509(k)(2)(B) is added to clarify that the production facilities identified are required to meet the provisions in section 5508(u) and if subject to approval by the CFC, that the CFC will provide a notice to that affect.

Section 5515(b)(2) is amended to reference sections 5509(u) and (k)(2)(B), clarifying approved production facilities that shall be used in calculating the job ratio percentage points.

CFC Form DD (Rev. 9/1/2015) has been amended to add the Job Ratio number to the form. This information is provided by the CFC and does not impose any requirements on the applicant.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposed regulation will improve the business climate in California by encouraging film producers to keep their productions in the state. It will help California be competitive in the film industry, enabling it to increase the number of productions and therefore, jobs and dollars spent in state.

COST ESTIMATES OF PROPOSED ACTION

The California Film Commission has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:   None.
- Cost or savings in federal funding to the state: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Potential cost impact on representative person or businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur

in reasonable compliance with the proposed action.

- Significant effect on housing costs: None.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED ON BY THE BOARD

National Institute of Standards and Technology (NIST)
Engineering Statistics E-Handbook
http://www.itl.nist.gov/div898/handbook/prc/section2/prc262.htm)