
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 2403 **Hearing Date:** June 30, 2026
Author: Elhawary
Version: April 13, 2026
Urgency: No **Fiscal:** Yes
Consultant: NDT

Subject: *Income tax: credits: commercial production*

HISTORY

Source: Association of Independent Commercial Producers

Prior Legislation: AB 1138 (Zbur), Ch. 27, Stats. of 2025
SB 132 (Com. on Budget & Fiscal Review), Ch. 56, Stats. of 2023
SB 144 (Portantino), Ch. 114, Stats. of 2021
SB 871 (Com. on Budget & Fiscal Review), Ch. 54, Stats. of 2018
AB 1839 (Gatto), Ch. 413, Stats. of 2014

Support: Academy Films; Anonymous Content; Association of Independent Commercial Producers; Believe Media; Biscuit Filmworks; Bob Industries; Bodega Studios; California League of United Latin American Citizens; Canada Los Angeles; Cast & Crew; Caviar La; Division7; Epoch Media Group; Furlined; Hungry Man; Independent Media; Lovesong; National Action Network Sacramento; Nightcall Productions; Object & Animal USA; Partizan Entertainment; PDSI, DbA Payday; Prettybird; Reset Content; RSA Films; Serial Pictures; Skunk Partners; Smuggler; Somesuch; Something Ideal; Stink Films; Supply & Demand; The Directors Bureau; The Team Companies; Thinking Machine; Tool of North America; Untitled; Vs Rentals Opco DbA Versatile Studios; Ways & Means; World War Seven Studios

Opposition: None known

Assembly Floor Vote: 70 - 3

PURPOSE

The purpose of this bill is to allow a tax credit to a qualified commercial production company that produces a qualified commercial in the state.

Existing law allows a credit to a “qualified taxpayer” equal to 35% or 40%, as applicable, of “qualified expenditures” for the production of a “qualified motion picture” in California. (Rev. & Tax Code, §§ 17053.98.1, subd. (a)(1), 23698.1, subd. (a)(1).)

Existing law defines a “qualified taxpayer” as a taxpayer who has:

- Paid or incurred “qualified expenditures”;

- Participated in the Career Readiness requirement; and,
- Been issued a credit certificate by the California Film Commission (CFC).

(Rev. & Tax Code, §§ 17053.98.1, subd. (b)(20), 23698.1, subd. (b)(20).)

Existing law defines “qualified expenditures” as amounts paid or incurred for tangible personal property purchased or leased, and used, within this state in the production of a “qualified motion picture” and payments, including “qualified wages,” for services performed within this state in the production of a “qualified motion picture.” (Rev. & Tax Code, §§ 17053.98.1, subd. (b)(17), 23698.1, subd. (b)(17).)

Existing law defines a “qualified motion picture” as a motion picture that is produced for distribution to the general public, regardless of medium, that is one of the following:

- A feature with a minimum production budget of \$1 million;
- A miniseries or limited series consisting of two or more episodes, each longer than 40 minutes of running time, exclusive of commercials, that is produced in California, with a minimum production budget of \$1 million per episode;
- A new television series of episodes longer than 40 minutes each of running time, exclusive of commercials, that is produced in California, with a minimum production budget of \$1 million per episode;
- An independent film;
- A television series that relocated to California;
- A pilot for a new television series that is longer than 20 minutes of running time, exclusive of commercials, that is produced in California, and with a minimum production budget of \$1 million;
- A live action or animated series, averaging across a season at least 20 minutes of running time per episode, exclusive of commercials, that is produced in California with a minimum production budget of \$1 million;
- An animated film that is produced in California, with a minimum production budget of \$1 million; or,
- A large-scale competition show, not including traditional reality, game shows, talk shows, or docufollow television programming, that is produced in California with a minimum production budget of \$1 million per episode. (Rev. & Tax Code, §§ 17053.98.1, subd. (b)(19)(A), 23698.1, subd. (b)(19)(A).)

Existing law specifies that, to qualify as a “qualified motion picture,” all of the following conditions must be satisfied:

- At least 75% of the principal photography days occur wholly in California or 75% of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state;
- Production of the qualified motion picture is completed within 30 months of the date on which the qualified taxpayer’s application is approved by the CFC;
- The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code;
- Principal photography of the qualified motion picture begins after the date on which the application is approved by the CFC, as specified;

- If applicable, at least 75% of production costs for picture editing and postproduction sound labor and services are incurred in California; and,
- Provides a diversity workplan checklist. (Rev. & Tax Code, §§ 17053.98.1, subd. (b)(19)(B), 23698.1, subd. (b)(19)(B).)

Existing law excludes certain expenses from the definition of “qualified wages,” including expenses paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines. (Rev. & Tax Code, §§ 17053.98.1, subd. (b)(22)(B), 23698.1, subd. (b)(22)(B).)

Existing law defines a “qualified individual” as any individual, except as specified, who performs services during the production period in an activity related to the production of a qualified motion picture. (Rev. & Tax Code, §§ 17053.98.1, subd. (b)(18), 23698.1, subd. (d).)

Existing law defines the “Los Angeles Zone” as the area within a 30 mile radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, California, and includes Agua Dulce, Castaic, including Castaic Lake, Leo Carrillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro-Goldwyn-Mayer, Inc.’s Conejo Ranch property is within the Los Angeles zone. (Rev. & Tax Code, §§ 17053.98.1, subd. (a)(4)(A)(i)(ib), 23698.1, subd. (a)(4)(A)(i)(ib).)

Existing law requires any taxpayer claiming the credits to provide information to the CFC including, but not limited to, the names of each qualified individual; the specific start and end dates of production; the total wages paid; the total amount of qualified wages paid to qualified individuals; aggregate data for individuals whose wages are excluded from qualified wages, including their gender, ethnic, and racial makeup; the copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate; the total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture; information to substantiate its qualified expenditures; and information required by the CFC necessary to verify the amount of credit claimed, completion of the Career Readiness requirement, and payment of the Career Pathways Program fee. (Rev. & Tax Code, §§ 17053.98.1, subd. (d), 23698.1, subd. (d).)

Existing law requires the CFC to do the following:

- On or after July 1, 2025, and before July 1, 2030, in four or more allocation periods per fiscal year (FY), allocate tax credits to applicants;
- Establish a procedure for applicants to file with the CFC a written application for the allocation of the tax credit. The application must include numerous items of information including the budget for the motion picture production, the number of production days, a financing plan, the diversity of the workforce employed by the applicant, the amount of qualified wages the applicant expects to pay to qualified individuals, and a statement establishing that the tax credit is a significant factor in the applicant's choice of location;
- For each allocation date and for each category, list each applicant from highest to lowest according to a jobs ratio computed by the CFC;
- Subject to the applicable credit percentage, allocate the credit to each applicant according to the highest jobs ratio, working down the list, until the credit amount is exhausted; and,

- Certify tax credits allocated to qualified taxpayers. (Rev. & Tax Code, §§ 17053.98.1, subd. (g), 23698.1, subd. (g).)

Existing law caps the aggregate amount of credits that may be allocated per FY, except as provided, to \$750 million for FY 2025-26 and each FY thereafter, through and including FY 2029-30, as specified. (Rev. & Tax Code, §§ 17053.98.1, subd. (h)(3), 23698.1, subd. (h)(3).)

Existing law requires the CFC to allocate the credit amounts according to the following categories:

- Independent films with qualified expenditures of \$10 million or less shall be allocated 4.8% of the total. Independent films with qualified expenditures in excess of \$10 million shall be allocated 3.2% of the total. These amounts shall be in addition to any unused allocation credit amount, if any, for the preceding FY, as specified;
- Features shall be allocated 35% of the total;
- Relocating television series shall be allocated 17% of the total; and,
- A new television series, pilots for a new television series, miniseries, and recurring television series shall be allocated 40% of the total, plus any unused allocation credit amount, if any, for the preceding FY, as specified. (Rev. & Tax Code, §§ 17053.98.1, 23698.1.)

Existing law allows a credit for taxable years beginning on or after January 1, 2022, and before January 1, 2025, in an amount equal to 20% or 25% of qualified expenditures for the production of a qualified motion picture produced in the state at a certified studio construction project. These credit amounts are increased to 35% and 40% for credits allocated on or after July 1, 2025. (Rev. & Tax Code, § 17053.98, subd. (k).)

Existing law requires any bill authorizing a new credit to contain all of the following:

- Specific goals, purposes, and objectives that the tax credit will achieve;
- Detailed performance indicators for the Legislature to use when measuring whether the tax credit meets the goals, purposes, and objectives stated in the bill; and,
- Data collection requirements to enable the Legislature to determine whether the tax credit is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. The requirements shall include the specific data and baseline measurements to be collected and remitted in each year the credit is in effect, for the Legislature to measure the change in performance indicators, and the specific taxpayers, state agencies, or other entities required to collect and remit data. (Rev. & Tax Code, § 41.)

Existing law requires the California Franchise Tax Board (FTB) to assess civil penalties for various tax offenses. (Rev. & Tax Code, §§ 19701 et. seq.)

Existing law makes violation of franchise and income tax laws a felony, as specified. (Rev. & Tax Code, § 19705.)

Existing law provides that every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and

every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury. (Pen. Code, § 118, subd. (a).)

Existing law provides that any person who, in any affidavit taken before any person authorized to administer oaths, swears, affirms, declares, deposes, or certifies that they will testify, declare, depose, or certify before any competent tribunal, officer, or person, in any case then pending or thereafter to be instituted, in any particular manner, or to any particular fact, and in such affidavit willfully and contrary to such oath states as true any material matter which they know to be false, is guilty of perjury. In any prosecution, the subsequent testimony of such person, in any action involving the matters in such affidavit contained, which is contrary to any of the matters in such affidavit contained, shall be prima facie evidence that the matters in such affidavit were false. (Pen. Code, § 118a.)

Existing law makes perjury a felony, punishable by imprisonment for two, three, or four years. (Pen. Code, § 126.)

This bill allows, for taxable years beginning on or after January 1, 2027, and before January 1, 2032, a credit to a “qualified taxpayer” in an amount equal to the following:

- 20% of “qualified production costs” in excess of \$500,000 for the production of a “qualified commercial” if the “qualified commercial” is filmed inside the Los Angeles zone, as defined; and,
- 30% of “qualified production costs” in excess of \$500,000 for the production of a “qualified commercial” if the “qualified commercial” is filmed outside the Los Angeles Zone, as defined.

This bill defines all of the following:

- “Qualified commercial production company” means a production company that:
 - Is responsible for the direct payment of production expenses and is a signatory to the qualified commercial's contracts with its payroll company and facility operators; and,
 - Is neither the distributor or the contracting entity for production of the qualified commercial, nor a variable interest entity of the distributor or contracting entity.
- “Qualified commercial” is an advertisement recorded on film, audiotape, videotape, or digital medium in California for multimarket distribution by way of radio, television networks, cable, satellite, motion picture theaters, or internet and meets other specified requirements, and includes a package of commercials consisting of two or more commercials that are bid and produced under a single agency or client contract in which a specified number of deliverables are produced together within a defined timeframe by a qualified commercial production company, and does not include any of the following:
 - A news or current affairs program, interview or talk program, network promotional, such as a commercial promoting a television series or movie, “how-to” or instructional commercial or program, commercial or program consisting entirely of stock footage, trailer promoting a theatrical film, sporting event or sporting program, game show, award ceremony, or daytime drama, including a daytime soap opera or reality program;

- A production involving sexually explicit conduct subject to the recordkeeping requirements of Section 2257 of Title 18 of the United States Code; and,
 - A commercial of more than three minutes in length, unless specifically exempted by the CFC or a valid collective bargaining agreement governing the employees whose work may be affected. This does not exclude a package of commercials if each commercial is not more than three minutes in length.
- “Qualified taxpayer” is a “qualified commercial production company” that produces “qualified commercials” in California and is allocated a credit by the CFC.
 - “Qualified production costs” are all expenditures made in California directly attributable to the production of a qualified commercial, but do not include either of the following:
 - Costs for a story, script, or scenario to be used for a qualified commercial; or,
 - Wages, salaries, or other compensation for writers, directors, including music directors, producers, and performers other than musicians and background actors with no scripted lines who are employed by a qualified company.
 - “Generative artificial intelligence” means a computational system or model capable of generating text, images, audio, video, performances, or other expressive content based on training data, algorithms, or machine learning techniques, without direct contemporaneous creative control by a natural person over the expressive output.

This bill requires that at least 75% of the production costs paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial are costs incurred in California.

This bill requires the production of a qualified commercial, if not party to and in compliance with a valid collective bargaining agreement covering the employees of the production, to do all of the following:

- Demonstrate as part of the CFC application process that the production is in compliance with applicable federal, state, and local laws and regulations;
- Provide wages for employees in California that are equal to or more than the average weekly wage rate for similar workers in the same occupation;
- Provide health insurance benefits for all employees; and,
- Provide a defined-benefit pension for all employees.

This bill makes ineligible for the credits any commercial that either:

- Is created entirely by means of generative artificial intelligence; or,
- Utilizes generative artificial intelligence, automated technologies, or autonomous vehicles in a manner that replaces or diminishes the job functions customarily performed by a human worker in the production.

This bill provides that a commercial is deemed to be created entirely by means of generative artificial intelligence if both of the following are satisfied:

- All principal expressive elements, including, but not limited to, script, dialogue, visual imagery, animation, performances, voices, music, and sound design, are generated by generative artificial intelligence; and,

- No natural person performs a principal creative role in the origination, performance, or fixation of those expressive elements, other than de minimis technical prompting, selection, or compilation.

This bill provides that the restrictions described above shall not exclude a production from eligibility for any of the following:

- Use of generative artificial intelligence as a tool in support of human creative decision-making;
- Use of artificial intelligence-assisted processes in preproduction, production, or postproduction, provided that natural persons exercise principal creative control;
- Incorporation of artificial intelligence for technical, logistical, or efficiency purposes that do not replace principal creative roles performed by natural persons; and,
- Use of generative artificial intelligence, automated technologies, or autonomous vehicles, to the extent such use is authorized by, and carried out in accordance with, a valid collective bargaining agreement governing the employees whose work may be affected.

This bill requires the CFC to do all of the following:

- Establish an application process that accepts submissions between January 1 and April 1 of the calendar year succeeding the year in which the production of the qualified commercial occurred;
- Allocate tax credits to applicants in four or more allocation periods per fiscal year between July 1, 2027, and before July 1, 2032; and,
- Require, as part of the application process, a certification under penalty of perjury that the production is not created entirely by means of generative artificial intelligence and that the labor standards described above are satisfied. The CFC may require the submission of payroll records, benefit contribution reports, copies of applicable collective bargaining agreements, and attestations from payroll service providers to verify compliance with the provisions of this bill.

This bill limits the aggregate amount of credits that may be allocated per FY to \$15 million, plus any amount unallocated in any prior FY.

This bill requires an applicant to certify under penalty of perjury that the production is not created entirely by means of generative artificial intelligence and that the labor standards are satisfied.

COMMENTS

1. Need for This Bill

According to the author:

AB 2403 creates a commercial production tax credit to bring this work back to California and reinvest in the workers, union jobs, and small businesses who have been left out of existing incentives. Commercial production is often an entry point into the entertainment industry, especially for individuals who have been formerly incarcerated and are working to rebuild their lives and careers. By revitalizing this

sector, we are not only strengthening our economy and keeping California competitive, but also expanding access to opportunity and advancing a more equitable and inclusive industry.

2. Perjury

Perjury occurs when a person, having taken an oath that they will speak honestly before a tribunal, officer, or person, states as true any material matter which they know to be false. (Pen. Code, § 118, subd. (a).) Perjury applies not only to the described testimony but also to written sworn affidavits. (Pen. Code, § 118a.) It is a jail felony punishable by two, three, or four years of imprisonment. (Pen. Code, § 126.)

It is not a defense to perjury that the person accused was not competent to give the testimony of which the falsehood is alleged. (Pen. Code, § 122.) It is also not a defense to perjury that the person accused did not know the materiality of the false statement or did not know the effect that the false statement could have. (Pen. Code, § 123.) A person cannot be convicted of perjury if the proof of their perjury rests solely upon the testimony of one other person. (Pen. Code, § 118, subd. (b).)

3. Enhanced Sentencing and Deterrence

Research shows that increasing the severity of punishment does little to deter crime. According to the National Institute of Justice, an agency of the U.S. Department of Justice, “[l]aws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not ‘chasten’ individuals convicted of crimes, and prisons may exacerbate recidivism... Studies show that for most individuals convicted of a crime, short to moderate prison sentences may be a deterrent but longer prison terms produce only a limited deterrent effect. In addition, the crime prevention benefit falls far short of the social and economic costs.”¹

4. Effect of This Bill

This bill provides a tax cut which could encourage film industry business to stay in California.

This bill creates two new perjury offenses, one in the Personal Income Tax Law and one in the Corporation Tax Law. Because perjury is a jail felony, this bill could lead to an increase in incarceration. Increasing criminal penalties does not create deterrence. Furthermore, these offenses may be alternatively punishable using current tax fraud provisions.

5. Argument in Support

According to the sponsor of this bill, the Association of Independent Commercial Producers:

The bill provides a 20 percent credit for qualified production costs incurred within the Los Angeles studio zone and a 30 percent credit for qualified production costs incurred outside the zone, thereby encouraging regional economic development across California. Importantly, the program focuses on qualified in-state expenditures, including below-the-

¹ National Institute of Justice (May 2016). *Five Things about Deterrence*
<https://www.ojp.gov/pdffiles1/nij/247350.pdf>

line labor, ensuring that the benefits flow directly to working Californians and local businesses.

Commercial production has long been a cornerstone of California's creative workforce. Television commercials provide steady, high-wage employment for union crews, independent production companies, and a broad network of local vendors. Commercial shoots frequently sustain workers between longer film and television projects and deliver immediate economic benefits to communities throughout the state.

While California maintains the most experienced production workforce and infrastructure in the world, we are one of the few major production centers without a dedicated commercial production tax credit. Over the past decade, California has experienced a significant decline in commercial production. This erosion reflects the increasing mobility of commercial production and the competitive incentives offered by other states, such as New York, Georgia, Illinois, and Texas. As a result, jobs, payroll, and local spending continue to migrate elsewhere.

AB 2403 would help reverse the decline in commercial production, stabilize employment for skilled crews, and restore California's competitiveness in a highly mobile production market.

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