

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE F. COMMERCE AND INDUSTRIAL DEVELOPMENT

CHAPTER 485. MUSIC, FILM, TELEVISION, AND MULTIMEDIA INDUSTRIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485.001. DEFINITIONS. In this chapter, "office" means the Music, Film, Television, and Multimedia Office.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.002. ESTABLISHMENT. The Music, Film, Television, and Multimedia Office is established in the office of the governor.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.003. DIRECTOR; STAFF. The governor may employ a director who may employ other employees necessary to carry out the office's duties.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.004. PROMOTION; DUTIES. (a) The office shall promote the development of the music industry in the state by informing members of that industry and the public about the resources available in the state for music production.

(b) The office shall promote the development of the film, television, and multimedia industries in this state by informing members of those industries and the public of the resources available in this state for film, television, and multimedia production.

(c) State agencies and political subdivisions of this state shall cooperate with the office to the greatest extent possible to fully implement the goal of promoting the development of the music, film, television, and multimedia industries in this state.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept.

1, 1991.

Sec. 485.005. ADVISORS. (a) The office may appoint advisors to assist in the administration of this chapter.

(b) An advisor serves without compensation but is entitled to necessary and actual expenses incurred in performing duties under this chapter.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.006. GIFTS AND GRANTS. The office may accept gifts, grants, and other funds specifically designated by the donor or grantor for use in developing the music, film, television, and multimedia industries of this state.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

Sec. 485.007. MUSIC, FILM, TELEVISION, AND MULTIMEDIA FUND. The music, film, television, and multimedia fund is in the state treasury. The continued existence of this fund is determined by the provisions of S.B. No. 3, Acts of the 72nd Legislature, 1st Called Session, 1991. All gifts, grants, and other funds received by the office under this chapter shall be deposited to the credit of the fund and may be used only for the purposes of this chapter.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 29, eff. Sept. 1, 1991.

SUBCHAPTER B. MOVING IMAGE INDUSTRY INCENTIVE PROGRAM

Sec. 485.021. DEFINITIONS. In this subchapter:

(1) "In-state spending" means the amount of money spent in Texas by a production company during the production and completion of a moving image project, including the amount spent on wages to Texas residents. The term does not include wages described by Section [485.024\(b\)](#).

(2) "Moving image project" means a visual and sound production, including a film, television program, national or

multistate commercial, educational or instructional video, or digital interactive media production. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(3) "Production company" includes a film production company, television production company, digital interactive media production company, or film and television production company.

(4) "Texas resident" means an individual who has resided in Texas since the 120th day before the first day of principal photography on a moving image project.

(5) "Underutilized and economically distressed area" includes any area of this state that:

(A) the office determines receives less than 15 percent of the total film and television production in this state during a fiscal year; or

(B) has a median household income that does not exceed 75 percent of the median state household income.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 2, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 1, eff. April 23, 2009.

Sec. 485.022. MOVING IMAGE INDUSTRY INCENTIVE PROGRAM. (a) The office shall administer a grant program for production companies that produce moving image projects in this state, to the extent that gifts, grants, donations, or other money, including appropriations, are made available to the office for that purpose.

(b) The office shall develop a procedure for the submission of grant applications and the awarding of grants under this subchapter. The procedure must include provisions relating to:

(1) methods by which an individual's Texas residency as described by Section 485.021(4) can be proved; and

(2) requirements for the submission, before production of a moving image project begins, of:

- (A) an estimate of total in-state spending;
- (B) the shooting script or story board, as applicable;
- (C) the estimated number of jobs for cast and production crew during the production and completion of a moving image project; and
- (D) any other information considered useful and necessary by the office for an adequate and accurate analysis of a production company's in-state spending.

(c) The office may accept gifts, grants, and donations for the purpose of implementing this subchapter.

(d) The office may award a grant to a production company only based on a production company's in-state spending that the office verifies as having been completed.

(e) The office is not required to act on any grant application and may deny an application because of inappropriate content or content that portrays Texas or Texans in a negative fashion, as determined by the office, in a moving image project. In determining whether to act on or deny a grant application, the office shall consider general standards of decency and respect for the diverse beliefs and values of the citizens of Texas.

(f) Before a grant is awarded under this subchapter, the office shall:

- (1) require a copy of the final script; and
- (2) determine if any substantial changes occurred during production on a moving image project to include content described by Subsection (e).

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. [1142](#)), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. [1634](#)), Sec. 3, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. [1634](#)), Sec. 4, eff. June 8, 2007.

Sec. 485.023. QUALIFICATION. To qualify for a grant under

this subchapter:

(1) a production company must have spent a minimum of:

(A) \$250,000 in in-state spending for a film or television program; or

(B) \$100,000 in in-state spending for a commercial or series of commercials, an educational or instructional video or series of educational or instructional videos, or a digital interactive media production;

(2) at least 70 percent of the production crew, actors, and extras for a moving image project must be Texas residents unless the office determines and certifies in writing that a sufficient number of qualified crew, actors, and extras are not available to the company at the time principal photography begins;

(3) at least 60 percent of the moving image project must be filmed in Texas; and

(4) a production company must submit to the office an expended budget, in a format prescribed by the office, that reflects all in-state spending and includes all receipts, invoices, pay orders, and other documentation considered necessary by the office to accurately determine the amount of a production company's in-state spending that has occurred.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. [1142](#)), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. [1634](#)), Sec. 5, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. [873](#)), Sec. 2, eff. April 23, 2009.

Sec. 485.024. GRANT. (a) Except as provided by Section [485.025](#), a grant under this subchapter may not exceed the amount established by office rule. The office shall adopt rules prescribing the method the office will use to calculate the amount of a grant under this subsection. The office shall publish a written summary of the method for determining grants before awarding a grant under this section. The method must consider at a

minimum:

(1) the current and likely future effect a moving image project will have on employment, tourism, and economic activity in this state; and

(2) the amount of a production company's in-state spending for a moving image project.

(b) In calculating a grant amount under Section 485.025 or the amount of in-state spending for purposes of rules adopted under Subsection (a), the office may not include wages of persons, including an actor or director, employed in the production of a moving image project that exceed \$1 million.

(c) The office may only make a grant from appropriated funds.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 6, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 3, eff. April 23, 2009.

Sec. 485.025. ADDITIONAL GRANT FOR UNDERUTILIZED AND ECONOMICALLY DISTRESSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent of a moving image project's filming days in an underutilized and economically distressed area is eligible for an additional grant in an amount equal to 2.5 percent of the total amount of the production company's in-state spending for the moving image project.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 6, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 2 (H.B. 873), Sec. 3, eff. April 23, 2009.

Sec. 485.026. STATE DEBT. If a production company owes money to the state at the time the production company is awarded a grant under this subchapter, the office shall offset the amount owed to the state from the amount awarded.

Added by Acts 2005, 79th Leg., Ch. 342 (S.B. 1142), Sec. 2, eff. September 1, 2005.

Sec. 485.027. WORKFORCE TRAINING AND PERFORMANCE MEASURES.

(a) The office may contract with public junior colleges, as defined by Section 61.003, Education Code, or Texas nonprofit organizations to create a moving image industry personnel training program for developing and expanding the workforce for moving image projects in Texas.

(b) The office shall develop appropriate performance measures for training programs created under this section.

(c) The office and the Texas Higher Education Coordinating Board shall cooperate to develop performance measures that are appropriate for classroom instruction before the office may spend money to implement this section.

(d) The office shall consult with the Texas Workforce Commission to collect and compile data on the status of the moving image industry employment base in Texas.

Added by Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 7, eff. June 8, 2007.

Sec. 485.028. FILM ARCHIVE PROGRAM. (a) The office may contract with an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, to provide technical resources regarding archiving moving image projects, improving public access to the moving image heritage of Texas, including campaign material, and discovering, preserving, and collecting digital copies of the moving image heritage of Texas. A contract entered into under this section must require an organization to:

- (1) provide service to the public;
- (2) assist private organizations statewide; and
- (3) provide technical assistance with archiving and

preserving moving images and digitization work.

(b) The office by rule may develop policies and procedures for coordinating with state agencies to implement this section.

(c) The office shall establish performance measures for contractors that enter into a contract under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 260 (H.B. 1634), Sec. 7, eff. June 8, 2007.

SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

Sec. 485.041. DEFINITIONS. (a) Except as provided by Subsection (b), the definitions in Section 1.04, Alcoholic Beverage Code, apply to this subchapter.

(b) In this subchapter:

(1) "Mixed beverage gross receipts tax" means the tax imposed by Subchapter B, Chapter 183, Tax Code.

(2) "Permit holder" means a person who holds a permit issued under Section 151.201, Tax Code.

(3) "Permittee" has the meaning assigned by Section 183.001(b), Tax Code.

(4) "Program" means the Texas music incubator rebate program.

(5) "Sales tax" means the tax imposed by Chapter 151, Tax Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM.

(a) The office shall administer the Texas music incubator rebate program under which the office shall provide to eligible music venues and eligible music festival promoters from money appropriated from the Texas music incubator account a full or partial rebate of the mixed beverage gross receipts taxes and sales tax receipts attributable to the sale of beer and wine and remitted to the comptroller annually by those venues and promoters. The Texas music incubator account shall be funded by mixed beverage gross receipts taxes and sales tax receipts attributable to the

sale of beer and wine remitted annually by venues and promoters and deposited into that account as required by Sections [151.801\(f\)](#) and [183.023\(c\)](#), Tax Code. The rebates are to assist eligible music venues and eligible music festival promoters in their efforts to support and continue to bring to local communities in this state live musical performances, including the recruitment of musical performance artists.

(b) The office may not provide a rebate under the program to a music venue or music festival promoter in an amount that exceeds the lesser of:

(1) the amount of mixed beverage gross receipts taxes and sales taxes attributable to the sale of beer and wine remitted in the preceding fiscal year to the comptroller by the music venue or music festival promoter as a permittee or permit holder; or

(2) \$100,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. [609](#)), Sec. 1, eff. September 1, 2021.

Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Except as provided by Subsection (b), to qualify for a rebate under the program, a music venue or music festival promoter, for at least the two years preceding the date on which the music venue or promoter, as applicable, submits an application under Section [485.044](#), must have:

(1) been a permittee subject to the mixed beverage gross receipts tax or a permit holder subject to the sales tax on the sale of beer or wine;

(2) if the applicant is a music venue, been a retail establishment with a dedicated audience capacity of not more than 3,000 persons;

(3) if the applicant is a music festival promoter, held a music festival in a county with a population of less than 100,000;

(4) entered into a written contract with a musical performance artist to conduct a live performance at the venue or festival, as applicable, under which the artist received as compensation a specified percentage of ticket sales for or other

sales during the performance, or a guaranteed amount in advance of the performance; and

(5) met at least five of the following criteria, one of which must be described by Paragraph (A) or (B):

(A) the marketing of live music performances through listings in printed or electronic publications;

(B) the provision of live music performances five or more nights per week;

(C) employment or contracting of the services of one or more people who are tasked with two or more of the following positions or services:

(i) sound engineer;

(ii) booker;

(iii) promoter;

(iv) stage manager; or

(v) security personnel;

(D) having live performance and audience space;

(E) the provision of technical sound and lighting support, either in-house or through a contract with a vendor;

(F) having a space for the storage of audio equipment or musical instruments;

(G) the application of cover charges to one or more live music performances through ticketing or the imposition of a front door entrance fee; or

(H) the maintenance of hours of operation that coincide with live music performance show times.

(b) The office may, at the office's discretion, provide a rebate under the program to a music venue or a music festival promoter that fails to meet the eligibility requirements prescribed by Subsection (a) solely because the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.044. REBATE APPLICATION. (a) The office shall:

(1) subject to Subsection (b), prescribe the application form for obtaining a rebate under the program; and

(2) establish an online portal on the office's public Internet website that allows a music venue or music festival promoter to submit the application to the office for consideration.

(b) The application must:

(1) state the amount of mixed beverage gross receipts tax and sales tax receipts attributable to the sale of beer and wine that was remitted to the comptroller by the music venue or music festival promoter in the preceding fiscal year;

(2) include sufficient evidence for the office to determine that the music venue or promoter qualifies for a rebate; and

(3) include any other information the office determines necessary to administer the program.

(c) The office shall accept rebate applications beginning September 1 of each year and may provide rebates until all the money in the Texas music incubator account is exhausted.

(d) The office may expedite the review of an application submitted by a music venue or music festival promoter, if the venue is located, or the festival is usually held, as applicable, in a county located wholly or partly in an area that at any time during the preceding two-year period was declared to be a disaster area by the governor or by the president of the United States.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) After reviewing applications for a rebate under the program, the office shall grant rebates to eligible music venues and music festival promoters that the office determines provide or have committed to provide the most economic benefit to the communities in which the music venues are located or the festivals are held, as applicable, and to the Texas music industry, including live music performers.

(b) As directed by the office, the comptroller shall issue a warrant for a rebate granted by the office under this section drawn

on the Texas music incubator account.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) The Texas music incubator account is a dedicated account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Sections 151.801(f) and 183.023(c), Tax Code;

(2) gifts, grants, and other money received by the office for the program; and

(3) other amounts deposited to the credit of the account.

(b) Money in the account may be appropriated only to the office for the purpose of paying rebates to music venues and certain music festival promoters under the program.

(c) Interest and other earnings from money in the account shall be credited to the account.

(d) On the last day of each state fiscal biennium, the comptroller shall transfer any money deposited to the account under Subsection (a)(1) that is unobligated and unexpended on that date to the general revenue fund to be used in accordance with legislative appropriation.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.

Sec. 485.047. RULES. The office shall adopt rules necessary to implement and administer this subchapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 84 (S.B. 609), Sec. 1, eff. September 1, 2021.