

STORAGE NAME: h0985a.ted

DATE: April 16, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 985 (PCB TU 99-03b)

RELATING TO: Promotion and Development of Florida's Entertainment Industry

SPONSOR(S): Committee on Tourism, Representative Starks and others

COMPANION BILL(S): Compare HB 839, HB 983, SB 1766, and SB 1778

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM YEAS 9 NAYS 0
- (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 7 NAYS 0
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 9 NAYS 0
- (4)
- (5)

I. SUMMARY:

The bill repeals the statutes which provide for the administration of programs to develop the entertainment industry through a contract with a private, not-for-profit corporation or a direct-support organization. The bill directs that these functions are to be administered by the Office of the Film Commissioner (Office), a centralized, state level office established within the Office of Tourism, Trade and Economic Development (OTTED) in the Office of the Governor.

The bill creates the Florida Film Advisory Council which will be administratively housed within OTTED. It is created to provide industry direction on promoting the growth of the entertainment industry in the state. The Governor, President of the Senate, and Speaker of the House of Representatives are to make appointments under criteria prescribed within the act. The Council's duties and powers are delineated, including, but not limited to, advising on development of a 5-year strategic plan by the office to develop, promote, and serve the state's entertainment industry and reviewing and advising on the implementation of the plan.

The Office of the Film Commissioner, created within OTTED, is directed, among other things, to develop and implement the 5-year strategic plan, develop a methodology for working with local entertainment industry promotion offices in providing service to the industry, serve as a liaison between government and the entertainment industry and serve as a liaison between the entertainment industry and labor interests.

Various provisions of Chapter 288, F.S., relating to the Florida Film and Television Investment Act and the Florida Film and Television Investment Board are repealed.

The bill takes effect upon becoming a law.

This bill creates a fiscal impact on state government.

[Note: See part VI. Amendment or Committee Substitute Changes for effects of an amendment adopted by the Committee on Transportation & Economic Development Appropriations.]

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Recent History of Entertainment Industry Promotion by the State

In 1992, s. 20.17, F.S., was amended to authorize the Department of Commerce to create a direct-support organization and to contract with this organization for the administration of Florida's entertainment industry promotion and development programs. The initial organization was named the Florida Entertainment Commission (FEC). In 1993, Governor Chiles dissolved the Department of Commerce's Film Bureau and the department contracted with the FEC to conduct the state's programs for the entertainment industry. An executive director was hired and put in charge of entertainment industry promotion and development with the direction to raise private funds to supplement an appropriation of \$200,000.

Chapter 96-320, LOF, dissolved the Florida Department of Commerce and authorized the newly created Governor's Office of Tourism, Trade, and Economic Development (OTTED) to contract with either a not-for-profit corporation or a direct-support organization to assist OTTED in developing and promoting the state's entertainment industry. In 1996, the FEC reorganized itself into the Florida Entertainment Industry Council, Inc. (FEIC). Initially, the FEIC board of directors consisted of the same members that had served on the FEC even though the FEIC members were not officially appointed by the Governor. At that time OTTED contracted with FEIC and continued to contract with FEIC until June 30, 1998.

Until such time OTTED had two contracts with the FEIC. The first contract designated the FEIC to be the not-for-profit corporation to assist OTTED in the promotion and development of the state's entertainment industry. The second contract, a consulting contract, provided that the FEIC would produce and distribute a directory of Florida entertainment production services and produce and distribute four entertainment industry promotional magazines. The FEIC would be paid a fee of \$200,411, payable in installments based upon a distribution schedule.

Numerous problems were reported on the consulting contract. Production deadlines were delayed or missed, and in some instances, production did not occur. Additionally, numerous factual errors were in the directory. The FEIC had difficulty maintaining the toll-free telephone line used by industry representatives to contact the state and concerns had been expressed about the possibility of financial difficulties. In fact, in a February 24, 1998 management review by the Office of the Inspector General of the Executive of the Governor found that FEIC did not follow prudent business practices, that the accounts receivables could not be confirmed under current circumstances, and the current financial resources were not adequate to pay current accounts payable.

Section 14.2015, F.S., requires that performance measures be included in any contract entered into by OTTED. The performance measures included with the contract related to the publications and not to any other development or promotion activities which the FEIC was carrying out on behalf of the state.

Prior to the 1998 Session, a number of organizations raised questions about the state's promotional activities relating to its entertainment industry. There was a dispute between local Florida film commissioners and the FEIC over the representation of the industry before the larger film industry located in Los Angeles. In 1997, OPPAGA made presentations to the House Committee on Tourism from which committee members raised questions regarding the effectiveness and efficiency of the state's current funding commitments to this program.

During the 1997 interim, staff of the House Tourism Committee was instructed by the Tourism Committee to do an interim study on the entertainment industry encompassing a review of Florida's laws, laws in other states, and an assessment of the involvement of local governmental entities in this type of activity and of the level of interaction between entertainment industry groups and the state's designated entertainment industry promotional representative. To this end, committee staff surveyed entertainment industry segments such as large studios and entertainment support businesses for input on the relationship between such groups and government representatives. Staff also interviewed governmental entertainment industry liaisons from other states about the organization of those state entertainment industry liaison offices and

the incentives offered by those states. The committee also received public testimony from entertainment industry professionals operating in Florida in several hearings. House Bill 3687 developed from this interim work and originated as a proposed committee bill (PCB TU 98-01) sponsored by the Committee on Tourism. The bill proposed both structural changes and industry incentives. The bill passed the House of Representatives twice but died in the Senate on the Special Order Calendar.

Continued appropriations for entertainment promotion under OTTED were tied to the passage of HB 3687. With the failure of its passage, no state revenues were appropriated in FY 1998-99.

Although OTTED approached FEIC regarding contracts after the state's contract with FEIC expired on June 30, 1998, no contract was signed.

Current Status of Entertainment Industry Promotion Activities by the State

Currently, there is no entity under contract to assist OTTED in the promotion and servicing of the entertainment industry in Florida. There is no entity to represent the state as a whole to the industry outside the boundaries of the state. There is no operational toll-free number for industry to call if interested in coming to the state to do business or if in need of assistance. There is no state funding available through a dedicated appropriation for the entertainment industry.

OTTED provides some assistance but only has one employee with responsibility for the entertainment industry and that employee has other areas of responsibility. The OTTED employee's function is to be a contract manager versus someone who services all aspects of the industry.

The local film commissioners and others in the entertainment industry through Film Florida provide assistance at the local level and through their employee in California who fields questions, directs leads, and performs some liaison functions.

B. EFFECT OF PROPOSED CHANGES:

The bill repeals the statutes which provide for the administration of programs to develop the entertainment industry through a contract with a private, not-for-profit corporation or a direct-support organization. The bill directs that these functions are to be administered by the Office of the Film Commissioner (Office), a centralized, state level office established within the Office of Tourism, Trade and Economic Development (OTTED) in the Office of the Governor.

The bill creates the Florida Film Advisory Council which will be administratively housed within OTTED. It is created to provide industry advice and direction on promoting the growth of the entertainment industry in the state. The Governor, President of the Senate, and Speaker of the House of Representatives are to make appointments under criteria prescribed within the act. The Council's powers and duties are delineated in the bill. Acting in an advisory capacity, the Council advises the Office on the development and implementation of a 5-year strategic plan to develop, promote, and serve the state's entertainment industry.

The bill creates the Office of the Film Commissioner within OTTED. Among a list of powers and duties, the Office is directed to develop and implement the strategic plan, develop a methodology for working with local entertainment industry promotion offices in providing service to the industry, serve as a liaison between government and the entertainment industry and serve as a liaison between the entertainment industry and labor interests.

Various provisions in Chapter 288, F.S., relating to the Florida Film and Television Investment Act and the Florida Film and Television Investment Board, are repealed.

Finally, the bill takes effect upon becoming law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill authorizes OTTED to make any necessary rules related to the travel and expense related authority given to the Office of the Film Commissioner. Section 4, page 12, line 9 of HB 985 provides rulemaking authority that is identical to the rulemaking authority language introduced last year in HB 3687. These rules are subject to the approval of the Florida Comptroller.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill shifts the administrative responsibilities for promoting and developing the state's entertainment industry from a contract with a private, not-for-profit corporation to a centralized, state-level office.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Although the duties of developing and promoting the state's entertainment industry are shifted to a state-level office, since that office is placed within OTTED, the current funding entity for this program has not changed.

(2) what is the cost of such responsibility at the new level/agency?

Indeterminate because it is dependent upon the amount of resources the Legislature determines is necessary for the office and its functions.

(3) how is the new agency accountable to the people governed?

Through performance-based budgeting procedures, general state agency statutory requirements, and specifically required strategic plans and annual reports.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates ss. 288.125, 288.1251, 288.1252, and 288.1253, F.S.

Amends ss. 14.2015, 288.108, and 288.90152, F.S.

Repeals ss. 288.051, 288.052, 288.053, 288.054, 288.055, 288.056, 288.057, 288.1228, and 288.12285, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 288.125, F.S., defining entertainment industry.

Section 2. Creates s. 288.1251, F.S., establishing the Office of the Film Commissioner within OTTED. A process for selection of a Film Commissioner by OTTED is provided. The section outlines the specific duties to be carried out by the Office which include developing and implementing the five-year strategic plan for entertainment industry development, marketing, promotion, liaison services, field office administration, and information. This section provides direction to the Office to develop ways to work with local community entertainment offices. Subsequent authority is given to the Office to conduct cooperative advertising, marketing, and promotion programs with both public and private entities.

Section 3. Creates s. 288.1252, F.S., to establish a 17-member Florida Film Advisory Council. This section provides criteria and term lengths for membership on the Council and directs that the Governor, the President of the Senate, and the Speaker of the House of Representatives each appoint a certain number of members to the Council using this criteria.

The Council is authorized to serve as an advisory body to OTTED and the Office of the Film Commissioner on issues relating to promoting and providing service to the state's entertainment industry. This section requires the Council to consult with and advise the Office of the Film Commissioner regarding the development and implementation of a five-year strategic plan to guide the activities of the Office of the Film Commissioner.

- Section 4. Creates s. 288.1253, F.S., authorizing the Office of the Film Commissioner, subject to Comptroller's Office and OTTED oversight, to expend funds on travel and entertainment for certain business clients and for certain business-related functions.
- Section 5. Amends s. 14.2015, F.S., to authorize OTTED to provide administrative oversight to the Office of the Film Commissioner.
- Section 6 and
Section 7. Amends ss. 288.108(6)(e) and 288.90152(7), F.S., to conform these references renumbered as a result of provisions added to current statutes by this bill.
- Section 8. Repeals ss. 288.051, 288.052, 288.053, 288.054, 288.025, 288.056, 288.057, 288.1228, and 288.12285, F.S., relating to entertainment industry promotion programs.
- Section 9. Provides that this act will become effective upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Non-recurring initial costs in the Executive Office of the Governor would be approximately \$20,000 in fiscal year 1999-2000.

2. Recurring Effects:

Recurring costs in future fiscal years in the Executive Office of the Governor for the operation of the Office of the Film Commissioner and the Florida Film Advisory Council are estimated to be approximately \$535,000.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The preliminary conference report on the General Appropriations Act for fiscal year 1999-2000 contains a lump sum allocation of \$427,456 to the Executive Office of the Governor to create the Office of the Film Commissioner and the Florida Film Advisory Council. The conference report also provides budget flexibility to the Executive Office of the Governor to modify the budget allocation to these programs through the budget amendment process provided in Chapter 216, Florida Statutes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

There is a potential for the improved marketing and servicing efforts for the state to increase business in the state helping businesses and individuals directly involved in the entertainment industry as well as those tangentially involved.

3. Effects on Competition, Private Enterprise and Employment Markets:

There is a potential for increased employment opportunities, expanded employment markets and private enterprise.

D. **FISCAL COMMENTS:**

The preliminary conference report on the General Appropriations Act for fiscal year 1999-2000 contains a lump sum allocation of \$427,456 to the Executive Office of the Governor to create the Office of the Film Commissioner and the Florida Film Advisory Council. The conference report also provides budget flexibility to the Executive Office of the Governor to modify the budget allocation to these programs through the budget amendment process provided in Chapter 216, Florida Statutes.

On April 16, 1999, the Committee on Transportation & Economic Development Appropriations adopted one amendment. The amendment appropriated, effective July 1, 1999, 3 full-time-equivalent positions to the Executive Office of the Governor in order to implement the provisions of this act.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require the counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 16, 1999, the Committee on Transportation & Economic Development Appropriations adopted one amendment. The amendment appropriated, effective July 1, 1999, 3 full-time-equivalent positions to the Executive Office of the Governor in order to implement the provisions of this act.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

Veronica P. Alvarez

Staff Director:

David M. Greenbaum

AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Kurt Hamon

Staff Director:

Eliza Hawkins