

Bill No. SB 1372

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CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Saunders)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 288.125, Florida Statutes, is
amended to read:

288.125 Definition of "entertainment industry".--For
the purposes of ss. 288.1251-288.1258, the term "entertainment
industry" means those persons or entities engaged in the
operation of motion picture or television studios or recording
studios; those persons or entities engaged in the
preproduction, production, or postproduction of motion
pictures, made-for-television movies ~~made for TV motion~~
~~pictures~~, television programming series, commercial
advertising, music videos, or sound recordings; and those
persons or entities providing products or services directly
related to the preproduction, production, or postproduction of
motion pictures, made-for-television movies

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1 ~~made-for-TV motion pictures~~, television programming series,
2 commercial advertising, music videos, or sound recordings,
3 including, but not limited to, the broadcast industry.

4 Section 2. Subsections (1), (2), (3), (4), and (7) of
5 section 288.1254, Florida Statutes, are amended to read:

6 288.1254 Entertainment industry financial incentive
7 program; creation; purpose; definitions; application
8 procedure; approval process; reimbursement eligibility;
9 submission of required documentation; recommendations for
10 payment; policies and procedures; fraudulent claims.--

11 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to
12 specific appropriation, there is created within the Office of
13 Film and Entertainment an entertainment industry financial
14 incentive program. The purpose of this program is to encourage
15 the use of this state as a site for filming, and ~~for~~ providing
16 production services for filmed entertainment, ~~motion pictures~~,
17 ~~made-for-television movies, commercials, music videos,~~
18 ~~industrial and educational films, and television programs by~~
19 ~~the entertainment industry.~~

20 (2) DEFINITIONS.--As used in this section, the term:

21 (a) "Filmed entertainment" means a theatrical or
22 direct-to-video motion picture, a made-for-television motion
23 picture teleproduction, a commercial, a music video, an
24 industrial or educational film, a promotional video or film, a
25 documentary film, a television pilot, a presentation for a
26 television pilot, a television series, including, but not
27 limited to, a drama, a reality, a comedy, a soap opera, a
28 telenovella, a game show, and a miniseries production, or a
29 digital-media-effects production by the entertainment industry
30 to be sold or displayed in an electronic medium. As used in
31 this paragraph, the term "motion picture" means a motion

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1 picture made on or by film, tape, or otherwise and produced by
 2 means of a motion picture camera, electronic camera or device,
 3 tape device, any combination of the foregoing, or any other
 4 means, method, or device now used or which may hereafter be
 5 adopted. As used in this paragraph, the term
 6 "digital-media-effects" means visual elements created through
 7 the modification of already existing or newly created visual
 8 elements for film, video, or animated media through the use of
 9 digital 2D/3D animation or painting, motion capture, or
 10 compositing technologies. For purposes of this section, the
 11 term "filmed entertainment" does not include the electronic
 12 gaming industry or sporting events.

13 (b) "Production costs" means the costs of real,
 14 tangible, and intangible property used and services performed
 15 in the production, including preproduction and postproduction,
 16 of qualified filmed entertainment. Production costs generally
 17 include, but are not limited to:

18 1. Wages, salaries, or other compensation for
 19 technical and production crews, directors, producers, and
 20 performers who are residents of this state.

21 2. Expenditures for sound stages, backlots, production
 22 editing, digital effects, sound recordings, sets, and set
 23 construction.

24 3. Expenditures for rental equipment, including, but
 25 not limited to, cameras and grip or electrical equipment.

26 4. Expenditures for meals, travel, accommodations, and
 27 goods used in producing filmed entertainment that is located
 28 and doing business in this state ~~total cost of producing~~
 29 ~~filmed entertainment.~~

30 (c) "Qualified expenditures" means production costs
 31 for goods purchased or leased or services purchased, leased,

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1 or employed from a resident of this state or a vendor or
 2 supplier who is located and doing business in this state, but
 3 excluding wages, salaries, or other compensation paid to the
 4 two highest-paid employees.

5 (d) "Qualified production" means filmed entertainment
 6 that makes expenditures in this state for the total or partial
 7 production of filmed entertainment ~~a motion picture,~~
 8 ~~made-for-television movie with a running time of 90 minutes or~~
 9 ~~more, commercial, music video, industrial and educational~~
 10 ~~film, television series pilot, or television episode.~~

11 Productions that are deemed by the Office of Film and
 12 Entertainment to contain obscene content, as defined by the
 13 United States Supreme Court, are shall not be considered
 14 qualified productions. Also, a production is not a qualified
 15 production if it is determined that the first day of principal
 16 photography in this state occurred on or before the date of
 17 submitting its application to the Office of Film and
 18 Entertainment prior to certification by the Office of Tourism,
 19 Trade, and Economic Development.

20 (e) "Qualified relocation project" means a
 21 corporation, limited liability company, partnership, corporate
 22 headquarters, or other private entity that is domiciled in
 23 another state or country and relocates its operations to this
 24 state, is organized under the laws of this or any other state
 25 or country, and includes as one of its primary purposes
 26 digital-media-effects or motion picture and television
 27 production, or postproduction.

28 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--

29 (a) Any company engaged in this state in producing
 30 filmed entertainment may submit an application to the Office
 31 of Film and Entertainment for the purpose of determining

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1 qualification for receipt of reimbursement provided in this
 2 section. The office must be provided information required to
 3 determine if the production is a qualified production and to
 4 determine the qualified expenditures, production costs, and
 5 other information necessary for the office to determine both
 6 eligibility for and level of reimbursement.

7 (b) A digital-media-effects company in the state which
 8 furnishes digital material to filmed entertainment ~~a qualified~~
 9 ~~production that is certified by the Office of Film and~~
 10 ~~Entertainment~~ may submit an application to the Office of Film
 11 and Entertainment for the purpose of determining qualification
 12 for receipt of reimbursement authorized by this section. The
 13 office must be provided information required to determine if
 14 the company is qualified and to determine the amount of
 15 reimbursement.

16 (c) Any corporation, limited liability company,
 17 partnership, corporate headquarters, or other private entity
 18 domiciled in another state which includes as one of its
 19 primary purposes digital-media-effects or motion picture and
 20 television production and which is considering relocation to
 21 this state may submit an application to the Office of Film and
 22 Entertainment for the purpose of determining qualification for
 23 reimbursement under this section.

24 (d)1. The Office of Film and Entertainment shall
 25 establish a process by which an application is accepted and
 26 reviewed and reimbursement eligibility and reimbursement
 27 amount are determined. The Office of Film and Entertainment
 28 may request assistance from a duly appointed local film
 29 commission in determining qualifications for reimbursement and
 30 compliance.

31 2. The Office of Film and Entertainment shall develop

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1 a standardized application form for use in approving a
 2 qualified production, a qualified relocation project, or a
 3 company qualifying under paragraph (a), paragraph (b), or
 4 paragraph (c). The application form must include, but need not
 5 be limited to, production-related information on employment,
 6 proposed total production budgets, planned expenditures in
 7 this state which are intended for use exclusively as an
 8 integral part of preproduction, production, or postproduction
 9 activities engaged primarily in this state, and a signed
 10 affirmation from the Office of Film and Entertainment that the
 11 information on the application form has been verified and is
 12 correct. The application form shall be distributed to
 13 applicants by the Office of Film and Entertainment or local
 14 film commissions.

15 3. The Office of Film and Entertainment must complete
 16 its review of each application within 5 days after receipt of
 17 the completed application, including all required information,
 18 and it must notify the applicant of its determination within
 19 10 business days after receipt of the completed application
 20 and required information.

21 4.2- Upon determination that all criteria are met for
 22 qualification for reimbursement, the Office of Film and
 23 Entertainment shall notify the applicant of such approval. The
 24 office shall also notify the Office of Tourism, Trade, and
 25 Economic Development of the applicant approval and amount of
 26 reimbursement required. The Office of Tourism, Trade, and
 27 Economic Development shall make final determination for actual
 28 reimbursement.

29 5.3- The Office of Film and Entertainment shall deny
 30 an application if it determines that:

31 a. The application is not complete or does not meet

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1 the requirements of this section; or

2 b. The reimbursement sought does not meet the
3 requirements of this section for such reimbursement.

4 ~~(e) The Office of Film and Entertainment shall develop
5 a standardized application form for use in approving a
6 qualified production, a qualified relocation project, or a
7 company qualifying under paragraph (b). The application form
8 must include, but is not limited to, production-related
9 information on employment, proposed total production budgets,
10 planned expenditures in this state which are intended for use
11 exclusively as an integral part of preproduction, production,
12 or postproduction activities engaged in primarily in this
13 state, and a signed affirmation from the Office of Film and
14 Entertainment that the information on the application form has
15 been verified and is correct. The application form shall be
16 distributed to applicants by the Office of Film and
17 Entertainment or local film commissions.~~

18 ~~(f) The Office of Film and Entertainment must complete
19 its review of each application within 5 days after receipt of
20 the completed application, including all required information,
21 and it must notify the applicant of its determination within
22 10 business days after receipt of the completed application
23 and required information.~~

24 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
25 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

26 (a) A ~~qualified~~ production that is qualified certified
27 by the Office of Film and Entertainment and is certified by
28 the Office of Tourism, Trade, and Economic Development is
29 eligible for ~~the following financial incentives from the~~
30 ~~state:~~

31 ~~1-~~ a reimbursement of up to 15 percent of its

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1 qualifying expenditures in this state on a filmed
 2 entertainment program that ~~motion picture, made-for-television~~
 3 ~~movie with a running time of 90 minutes or more, commercial,~~
 4 ~~music video, industrial film, educational film, television~~
 5 ~~series pilot, or television episode~~ that demonstrates a
 6 minimum of \$850,000 in total qualified expenditures for the
 7 entire run of the project, versus the budget on a single
 8 episode, within the fiscal year from July 1 to June 30.
 9 However, the maximum reimbursement that may be made with
 10 respect to any filmed entertainment program ~~a motion picture~~
 11 is \$2 million, ~~the maximum reimbursement that may be made with~~
 12 ~~respect to a made-for-television movie or television series~~
 13 ~~pilot with a running time of 90 minutes or more is \$450,000,~~
 14 ~~the maximum reimbursement that may be made with respect to any~~
 15 ~~single television series pilot or television episode is~~
 16 ~~\$150,000, the maximum reimbursement that may be made with~~
 17 ~~respect to a music video or commercial is \$25,000, and the~~
 18 ~~maximum reimbursement that may be made with respect to an~~
 19 ~~industrial film or an educational film is \$15,000.~~ All noted
 20 reimbursements under this section are subject to
 21 appropriation. Payments under this section in a fiscal year
 22 shall be made to qualified productions according to a
 23 production's principal photography start date, for those
 24 qualified productions having entered into the first queue as
 25 cited in subparagraph 1. or the second queue cited in
 26 subparagraph 2. within the first 2 weeks after the queue's
 27 opening. All other qualified productions entering into either
 28 queue after the initial 2-week openings shall be on a
 29 first-come, first-served basis until the appropriation for
 30 that fiscal year is exhausted. On February 1 of each year, the
 31 remaining funds within both queues shall be combined into a

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1 single queue and distributed based on a project's principal
 2 photography start date. Subject to subsequent appropriations,
 3 The eligibility of qualified productions may not shall carry
 4 over from year to year but such productions may reapply for
 5 eligibility under the guidelines established for doing so. The
 6 Office of Film and Entertainment shall develop a procedure to
 7 ensure that qualified productions continue on a reasonable
 8 schedule until completion. If a qualified production is not
 9 continued according to a reasonable schedule, the office shall
 10 withdraw its eligibility and reallocate the funds to the next
 11 other qualified productions already in the queue that have yet
 12 to receive their full maximum or 15-percent financial
 13 reimbursement, if they have not started principal photography
 14 by the time the funds become available.

15 1. Theatrical or direct-to-video motion pictures,
 16 made-for-television movies, commercials, music videos,
 17 industrial and educational films, promotional videos or films,
 18 documentary films, television specials, and
 19 digital-media-effects productions by the entertainment
 20 industry to be sold or displayed in an electronic medium shall
 21 have their own separate queue established, and such queue
 22 shall have dedicated to it 60 percent of all of the state
 23 incentive money.

24 2. Television pilots, presentations for television
 25 pilots, or television series, including, but not limited to,
 26 drama, reality, comedy, soap opera, telenovella, game show, or
 27 miniseries productions, by the entertainment industry to be
 28 sold or displayed in an electronic medium shall have their own
 29 separate queue established, and such queue shall have
 30 dedicated to it 40 percent of all of the state incentive
 31 money. Qualified expenditures for which reimbursement shall be

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1 ~~made include salaries and employment benefits paid for~~
 2 ~~services rendered in this state; rents for real and personal~~
 3 ~~property used in the production; payments for preproduction,~~
 4 ~~production, postproduction, and digital-media-effects services~~
 5 ~~rendered in this state; and cost of set construction.~~

6 ~~Reimbursement may not be authorized for salaries of the two~~
 7 ~~highest-paid actors. Salaries of other actors are~~
 8 ~~reimbursable.~~

9 (b) A digital-media-effects company in the state which
 10 furnishes digital material to filmed entertainment ~~a qualified~~
 11 ~~production that is certified by the Office of Film and~~
 12 ~~Entertainment~~ may be eligible for a payment in an amount not
 13 to exceed 5 percent of its annual gross revenues on qualified
 14 expenditures as defined listed in paragraph (2)(c)
 15 ~~subparagraph (a)2.~~ before taxes or \$100,000, whichever is
 16 less. A company applying for payment must submit documentation
 17 annually as required by the Office of Film and Entertainment
 18 for determination of eligibility of claimed billing and
 19 determination of the amount of payment for which the company
 20 is eligible.

21 (c) A qualified relocation project that is certified
 22 by the Office of Film and Entertainment is eligible for a
 23 one-time incentive payment in an amount equal to 5 percent of
 24 its annual gross revenues before taxes for the first 12 months
 25 of conducting business in its Florida domicile or \$200,000,
 26 whichever is less. A company applying for payment must submit
 27 documentation as required by the Office of Film and
 28 Entertainment for determination of eligibility of claimed
 29 billing and determination of the amount of payment for which
 30 the company is eligible.

31 (d) A qualified production, a digital-media-effects

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1 company, or a qualified relocation project applying for a
2 payment under this section must submit documentation for
3 claimed qualified expenditures to the Office of Film and
4 Entertainment.

5 (e) The Office of Film and Entertainment shall notify
6 the Office of Tourism, Trade, and Economic Development whether
7 an applicant meets the criteria for reimbursement and shall
8 recommend the reimbursement amount. The Office of Tourism,
9 Trade, and Economic Development shall make the final
10 determination for actual reimbursement.

11 (7) ANNUAL REPORT.--The Office of Film and
12 Entertainment shall provide an annual report for the previous
13 fiscal year, due October ~~January~~ 1, to the Governor, the
14 President of the Senate, and the Speaker of the House of
15 Representatives outlining the return on investment to the
16 state on funds expended pursuant to this section.

17 Section 3. This act shall take effect July 1, 2005.

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19
20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete everything before the enacting clause

23
24 and insert:

25 A bill to be entitled

26 An act relating to economic development;
27 amending s. 288.125, F.S.; changing the term
28 "television series" to "television programming"
29 for purposes of the definition of the term
30 "entertainment industry" in provisions
31 establishing the Office of Film and

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1 Entertainment within the Office of Tourism,
2 Trade, and Economic Development; amending s.
3 288.1254, F.S.; revising a program under which
4 certain persons producing, or providing
5 services for the production of, filmed
6 entertainment are eligible for state financial
7 incentives for activities in or relocated to
8 this state; revising definitions; revising
9 application procedures and requirements;
10 revising application approval provisions;
11 revising reimbursement eligibility criteria and
12 requirements; revising limits on reimbursement;
13 revising the due date for the annual report to
14 be submitted to the Governor and the
15 Legislature; providing an effective date.

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