

Bill No. CS for SB 2110

Barcode 763876

CHAMBER ACTION

Senate

House

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The Committee on Government Efficiency Appropriations (Posey)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 288.1254, Florida Statutes, is  
amended to read:

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

(1) CREATION AND PURPOSE OF PROGRAM.--Subject to  
specific appropriation, there is created within the Office of  
Film and Entertainment an entertainment industry financial  
incentive program. The purpose of this program is to encourage  
the use of this state as a site for filming and developing and  
sustaining the workforce and infrastructure ~~providing  
production services~~ for filmed entertainment.

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

2 (a) "Filmed entertainment" means a theatrical or  
3 direct-to-video motion picture, a made-for-television motion  
4 picture teleproduction, a commercial, a music video, an  
5 industrial or educational film, a promotional video or film, a  
6 documentary film, a television pilot, a television special, a  
7 presentation for a television pilot, a television series,  
8 including, but not limited to, a drama, a reality, a comedy, a  
9 soap opera, a telenovela, a game show, and a miniseries  
10 production, or a digital-media-effects production by the  
11 entertainment industry to be sold or displayed in an  
12 electronic medium, excluding news shows and sporting events.

13 As used in this paragraph, the term "motion picture" means a  
14 motion picture made on or by film, tape, or otherwise and  
15 produced by means of a motion picture camera, electronic  
16 camera or device, tape device, any combination of the  
17 foregoing, or any other means, method, or device now used or  
18 which may hereafter be adopted. As used in this paragraph, the  
19 term "digital-media-effects" means visual elements created  
20 through the modification of already existing or newly created  
21 visual elements for film, video, or animated media through the  
22 use of digital 2D/3D animation or painting, motion capture, or  
23 compositing technologies. ~~For purposes of this section, the~~  
24 ~~term "filmed entertainment" does not include the electronic~~  
25 ~~gaming industry or sporting events.~~

26 (b) "High-impact television series" means a production  
27 created to run multiple production seasons with an estimated  
28 order of at least seven episodes per season and qualified  
29 expenditures of at least \$625,000 per episode.

30 (c)(b) "Production costs" means the costs of ~~real,~~  
31 ~~tangible,~~ and intangible property used and services performed

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1 primarily or customarily in the production, including  
2 preproduction and postproduction, of qualified filmed  
3 entertainment. Production costs generally include, but are not  
4 limited to:

5 1. Wages, salaries, or other compensation, including  
6 amounts paid through payroll service companies, for technical  
7 and production crews, directors, producers, and performers ~~who~~  
8 ~~are residents of this state.~~

9 2. Expenditures for sound stages, backlots, production  
10 editing, digital effects, sound recordings, sets, and set  
11 construction.

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

14 4. Expenditures for meals, travel, and accommodations,  
15 ~~and goods used in producing filmed entertainment that is~~  
16 ~~located and doing business in this state.~~

17 5. Expenditures for goods and services used in  
18 producing filmed entertainment.

19 ~~(d)(c)~~ "Qualified expenditures" means production costs  
20 incurred in this state within the current state fiscal year  
21 for goods purchased or leased from or services provided by  
22 ~~purchased, leased, or employed from a resident of this state~~  
23 ~~or a vendor or supplier who is located and doing business in~~  
24 this state or payments to residents of this state in the form  
25 of salary, wages, or other compensation, but excluding wages,  
26 salaries, or other compensation paid to the two highest-paid  
27 residents of this state participating in the qualified  
28 production employees.

29 ~~(e)(d)~~ "Qualified production" means filmed  
30 entertainment that meets or exceeds minimum qualified ~~makes~~  
31 expenditures required in this state for the total or partial

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1 production of filmed entertainment. Productions that are  
 2 deemed by the Office of Film and Entertainment to contain  
 3 obscene content, as defined by the United States Supreme  
 4 Court, are not qualified productions. ~~Also, a production is~~  
 5 ~~not a qualified production if it is determined that the first~~  
 6 ~~day of principal photography in this state occurred on or~~  
 7 ~~before the date of submitting its application to the Office of~~  
 8 ~~Film and Entertainment or prior to certification by the Office~~  
 9 ~~of Tourism, Trade, and Economic Development.~~

10 (f)(e) "Qualified production company relocation  
 11 project" means a corporation, limited liability company,  
 12 partnership, ~~corporate headquarters,~~ or other legal private  
 13 entity engaged in the production of filmed entertainment that  
 14 ~~is domiciled in another state or country and relocates its~~  
 15 ~~operations to this state, is organized under the laws of this~~  
 16 ~~or any other state or country, and includes as one of its~~  
 17 ~~primary purposes digital media effects or motion picture and~~  
 18 ~~television production, or postproduction.~~

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

20 (a) Any company engaged in this state in producing  
 21 filmed entertainment may submit an application to the Office  
 22 of Film and Entertainment for the purpose of determining  
 23 qualification for receipt of reimbursement provided in this  
 24 section. The office must be provided information required to  
 25 determine if the production is a qualified production and to  
 26 determine the qualified expenditures, production costs, and  
 27 other information necessary for the office to determine both  
 28 eligibility for and level of reimbursement.

29 (b) ~~A digital media effects company in the state which~~  
 30 ~~furnishes digital material to filmed entertainment may submit~~  
 31 ~~an application to the Office of Film and Entertainment for the~~

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1 ~~purpose of determining qualification for receipt of~~  
 2 ~~reimbursement authorized by this section. The office must be~~  
 3 ~~provided information required to determine if the company is~~  
 4 ~~qualified and to determine the amount of reimbursement.~~

5 ~~(c) Any corporation, limited liability company,~~  
 6 ~~partnership, corporate headquarters, or other private entity~~  
 7 ~~domiciled in another state which includes as one of its~~  
 8 ~~primary purposes digital-media-effects or motion picture and~~  
 9 ~~television production and which is considering relocation to~~  
 10 ~~this state may submit an application to the Office of Film and~~  
 11 ~~Entertainment for the purpose of determining qualification for~~  
 12 ~~reimbursement under this section.~~

13 ~~(d)1.~~ The Office of Film and Entertainment shall  
 14 establish a process by which an application is accepted and  
 15 reviewed and reimbursement eligibility and reimbursement  
 16 amount are determined. The Office of Film and Entertainment  
 17 may request assistance from a duly appointed local film  
 18 commission in determining qualifications for reimbursement and  
 19 compliance.

20 2. The Office of Film and Entertainment shall develop  
 21 a standardized application form for use in qualifying an  
 22 applicant as approving a qualified production, ~~a qualified~~  
 23 ~~relocation project, or a company qualifying under paragraph~~  
 24 ~~(a), paragraph (b), or paragraph (c).~~ The application form for  
 25 qualifying an applicant as a qualified production must  
 26 include, but need not be limited to, production-related  
 27 information on employment, proposed total production budgets,  
 28 planned expenditures in this state ~~which are intended for use~~  
 29 ~~exclusively as an integral part of preproduction, production,~~  
 30 ~~or postproduction activities engaged primarily in this state,~~  
 31 and a signed affirmation from the applicant ~~Office of Film and~~

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1 ~~Entertainment~~ that the information on the application form has  
2 been verified and is correct. The application form shall be  
3 distributed to applicants by the Office of Film and  
4 Entertainment or local film commissions.

5       3. Within 10 business days after receipt of an  
6 application, the Office of Film and Entertainment shall review  
7 the application to determine if the application contains all  
8 the information required by this subsection and meets the  
9 criteria set out in this section. The office shall qualify all  
10 applications that contain the information and meet the  
11 criteria set out in this section as eligible to receive a  
12 reimbursement or shall notify the applicant that the  
13 requirements for qualification have not been met. If the  
14 application is qualified, the office shall recommend to the  
15 Office of Tourism, Trade, and Economic Development approval of  
16 the maximum amount of reimbursement required. ~~The Office of~~  
17 ~~Film and Entertainment must complete its review of each~~  
18 ~~application within 5 days after receipt of the completed~~  
19 ~~application, including all required information, and it must~~  
20 ~~notify the applicant of its determination within 10 business~~  
21 ~~days after receipt of the completed application and required~~  
22 ~~information.~~

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

31       5. The Office of Film and Entertainment shall deny an

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1 application if the office ~~it~~ determines that:

2 a. The application is not complete or does not meet  
3 the requirements of this section; or

4 b. The reimbursement sought does not meet the  
5 requirements of this section for such reimbursement.

6 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED  
7 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

8 (a) A production of filmed entertainment that is  
9 qualified by the Office of Film and Entertainment and is  
10 certified by the Office of Tourism, Trade, and Economic  
11 Development is eligible for a reimbursement of up to 15  
12 percent of its qualified ~~qualifying~~ expenditures in this state  
13 on a filmed entertainment program ~~that demonstrates a minimum~~  
14 ~~of \$850,000 in total qualified expenditures for the entire run~~  
15 ~~of the project, versus the budget on a single episode,~~ within  
16 the fiscal year from July 1 to June 30. However, the maximum  
17 reimbursement that may be made with respect to any filmed  
18 entertainment program in the first queue as cited in  
19 subparagraph 1. and in the second queue as cited in  
20 subparagraph 2. is \$2 million unless the production is a  
21 high-impact television series, in which case the production is  
22 eligible for a maximum reimbursement of \$3 million. The  
23 maximum reimbursement that may be made with respect to any  
24 filmed entertainment program in the third queue as cited in  
25 subparagraph 3. for any single production company is \$500,000  
26 per state fiscal year. All reimbursements under this section  
27 are subject to appropriation.

28 (b) Payments under this section in a state fiscal year  
29 shall be made to qualified productions according to a  
30 production's principal photography start date, for those  
31 qualified productions having entered into the first queue as

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1 cited in subparagraph 1., ~~or~~ the second queue cited in  
2 subparagraph 2., or the third queue cited in subparagraph 3.  
3 within the first 2 weeks after the queue's opening. All other  
4 qualified productions entering into any ~~either~~ queue after the  
5 initial 2-week openings shall be on a first-come, first-served  
6 basis until the appropriation for that fiscal year is  
7 exhausted. On ~~March~~ February 1 of each year, the remaining  
8 funds within the first queue as cited in subparagraph 1. or  
9 the second queue as cited in subparagraph 2. ~~both queues~~ shall  
10 be combined into a single queue and distributed based on a  
11 project's principal photography start date. On April 1 of each  
12 year, the remaining funds within the third queue as cited in  
13 subparagraph 3. shall be merged into a general queue and may  
14 be used for other purposes of this section, as determined by  
15 the Office of Film and Entertainment. The eligibility of  
16 qualified productions may not carry over from year to year,  
17 but such productions may reapply for eligibility under the  
18 guidelines established for doing so. The Office of Film and  
19 Entertainment shall develop a procedure to ensure that  
20 qualified productions continue on a reasonable schedule until  
21 completion. If a qualified production is not continued  
22 according to a reasonable schedule, the office shall withdraw  
23 its eligibility and reallocate the funds to the next qualified  
24 productions already in the queue that have yet to receive  
25 their full maximum or 15-percent financial reimbursement, if  
26 they have not started principal photography by the time the  
27 funds become available.

28 1. Film, television, and episodic queue.--Theatrical  
29 or direct-to-video motion pictures, made-for-television  
30 movies, ~~commercials, music videos,~~ industrial and educational  
31 films, promotional videos or films, documentary films,



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1 television specials, television series, including, but not  
2 limited to, miniseries and telenovelas, and  
3 digital-media-effects productions by the entertainment  
4 industry to be sold or displayed in an electronic medium which  
5 demonstrate a minimum of \$625,000 in total qualified  
6 expenditures for the entire run of the project, which, for a  
7 television series, means a season even if the season is not  
8 completed in the same state fiscal year in which principal  
9 photography began, shall have their own separate queue  
10 established, and such queue shall have dedicated to it 60  
11 percent of all of the state incentive money. A television  
12 series, including, but not limited to, a qualified high-impact  
13 television series, is not eligible for a reimbursement under  
14 this section after its fifth production season in this state.  
15 A qualified high-impact television series shall be allowed  
16 first position in this queue for its first five production  
17 seasons in this state if the application is received by the  
18 Office of Film and Entertainment within the first 2 weeks  
19 after the queue's opening. A qualified high-impact television  
20 series must file an application for each state fiscal year in  
21 which it is eligible to receive the credit, unless otherwise  
22 provided in this section.

23       2. Television pilot queue.--Television pilots and,  
24 presentations for television pilots for television series  
25 intended to be shot in this state and, or television series,  
26 including, but not limited to, drama, reality, comedy, soap  
27 opera, telenovela, game show, or miniseries productions, by  
28 the entertainment industry to be sold or displayed in an  
29 electronic medium which demonstrate a minimum of \$625,000 in  
30 total qualified expenditures for the pilot episode or  
31 presentation shall have their own separate queue established,

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1 and such queue shall have dedicated to it 20 ~~40~~ percent of all  
2 of the state incentive money.

3 3. Commercial and music video queue.--Commercials and  
4 music videos by the entertainment industry to be sold or  
5 displayed in an electronic medium which demonstrate a minimum  
6 of \$500,000 in combined total qualified expenditures from a  
7 production company during the state fiscal year with a minimum  
8 of \$75,000 in qualified expenditures for each production shall  
9 have their own separate queue established. Such queue shall  
10 have dedicated to it 20 percent of all of the state incentive  
11 money.

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

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

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1           ~~(c)(d)~~ A qualified production, ~~a digital-media-effects~~  
 2 company, ~~or a qualified relocation project~~ applying for a  
 3 payment under this section must submit documentation for  
 4 claimed qualified expenditures to the Office of Film and  
 5 Entertainment.

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

12           (5) MARKETING REQUIREMENTS.--The Office of Film and  
 13 Entertainment shall ensure marketing materials, including  
 14 promotions of this state as a tourist or filming destination,  
 15 are required when appropriate to be included on any filmed  
 16 entertainment as a condition of receiving reimbursement under  
 17 this section. The Office of Film and Entertainment shall  
 18 consult with appropriate entities for the development and  
 19 implementation of marketing materials.

20           ~~(6)(5)~~ RULES ~~POLICIES AND PROCEDURES~~.--The Office of  
 21 Tourism, Trade, and Economic Development shall adopt rules  
 22 pursuant to ss. 120.536(1) and 120.54 ~~policies and procedures~~  
 23 to implement this section, including, but not limited to,  
 24 rules specifying requirements for the application and approval  
 25 process, records required for ~~submission for~~ substantiation  
 26 for reimbursement, ~~and~~ determination of and qualification for  
 27 reimbursement, and marketing requirements for reimbursement  
 28 recipients.

29           ~~(7)(6)~~ FRAUDULENT CLAIMS.--

30           (a) Any applicant who submits an application under  
 31 this section which includes fraudulent information is liable

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1 for reimbursement of the reasonable costs and fees associated  
2 with the review, processing, investigation, and prosecution.

3       **(b)** An eligible entity or company that obtains a  
4 payment under this section through a claim that it knows is  
5 fraudulent is liable for reimbursement of the amount paid plus  
6 a penalty in an amount double the payment and reimbursement of  
7 reasonable costs, which penalty is in addition to any criminal  
8 penalty to which the entity or company is liable for the same  
9 acts, plus interest. The entity or company is also liable for  
10 costs and fees incurred by the state in investigating and  
11 prosecuting the fraudulent claim.

12       ~~(8)(7)~~ ANNUAL REPORT.--The Office of Film and  
13 Entertainment shall provide an annual report for the previous  
14 state fiscal year, due October 1, to the Governor, the  
15 President of the Senate, and the Speaker of the House of  
16 Representatives outlining the return on investment to the  
17 state on funds expended pursuant to this section.

18       Section 2. This act shall take effect July 1, 2006.

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21 ===== T I T L E   A M E N D M E N T =====

22 And the title is amended as follows:

23       Delete everything before the enacting clause

24

25 and insert:

26                               A bill to be entitled  
27       An act relating to entertainment industry  
28       economic development; amending s. 288.1254,  
29       F.S.; revising the entertainment industry  
30       financial incentive program; revising  
31       provisions relating to definitions,

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1 eligibility, and qualified productions;  
2 providing marketing requirements; requiring the  
3 Office of Tourism, Trade, and Economic  
4 Development to adopt rules; providing liability  
5 for reimbursement of certain costs and fees  
6 associated with fraudulent applications;  
7 providing an effective date.  
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