

Bill No. CS for SB 96

Barcode 561060

CHAMBER ACTION

Senate

House

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The Committee on Finance and Tax (Haridopolos) 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:

(Substantial rewording of section. See s. 288.1254, F.S., for present text.)

288.1254 Entertainment industry financial incentive program.--

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

(a) "Certified production" means a qualified production as determined by the Office of Tourism, Trade, and Economic Development. The term excludes a production if its first day of principal photography in this state occurred before the production is certified by the Office of Tourism, Trade, and Economic Development, unless the production spans more than 1 fiscal year, was a certified production on the

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1 first day of such photography, and is required to submit an
2 application for continuing the same production in the
3 subsequent year.

4 (b) "Digital media project" means a production of
5 interactive entertainment which is produced for distribution
6 in commercial or educational markets, including a video game,
7 simulation, or animation, or a production intended for
8 Internet or wireless distribution. The term excludes a
9 production deemed by the Office of Film and Entertainment to
10 contain obscene content as defined in s. 847.001(10).

11 (c) "High-impact television series" means a production
12 created to run multiple production seasons having an estimated
13 order of at least seven episodes per season and qualified
14 expenditures of at least \$625,000 per episode.

15 (d) "Off-season certified production" means a
16 production, other than a digital media project or an animated
17 production, which films 75 percent or more of its principal
18 photography days from June 1 through November 30.

19 (e) "Production" means a theatrical or direct-to-video
20 motion picture, a made-for-television motion picture, a
21 commercial, a music video, an industrial or educational film,
22 an infomercial, a documentary film, a television pilot
23 program, a presentation for a television pilot program, a
24 television series, including, but not limited to, a drama, a
25 reality show, a comedy, a soap opera, a telenovela, a game
26 show, a miniseries production, or a digital media project by
27 the entertainment industry. One season of a television series
28 is considered one production. The term excludes a weather or
29 market program, a sporting event, a sports show, a gala, a
30 production that solicits funds, a home shopping program, a
31 political program, a political documentary, political

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1 advertising, a gambling-related project or production, a
 2 concert production, a news show, a current-events show, a
 3 pornographic production, or a current-affairs show that is
 4 local, regional, or distributed only on the Internet. A
 5 production may be produced on or by film, tape, or otherwise
 6 by means of a motion picture camera, electronic camera or
 7 device, tape device, computer, any combination of the
 8 foregoing, or any other means, method, or device now used or
 9 later adopted.

10 (f) "Production expenditures" means the costs of
 11 tangible and intangible property used and services performed
 12 primarily and customarily in the production, including
 13 preproduction and postproduction, excluding costs for
 14 development, marketing, and distribution. Production
 15 expenditures include, but are not limited to:

16 1. Wages, salaries, or other compensation, including
 17 amounts paid through payroll service companies, for technical
 18 and production crews, directors, producers, and performers.

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

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

24 4. Expenditures for meals, travel, and accommodations.

25 (g) "Qualified expenditures" means production
 26 expenditures incurred in this state by a qualified production
 27 for:

28 1. Goods purchased or leased from, or services
 29 provided by, a vendor or supplier in this state which is
 30 registered with the Department of State or the Department of
 31 Revenue and doing business in this state.

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1 2. Payments to residents of this state in the form of
 2 salary, wages, or other compensation up to a maximum of
 3 \$400,000 per resident for the general production queue and the
 4 independent Florida filmmaker queue and up to a maximum of
 5 \$200,000 for the digital media queue.

6
 7 For a qualified production involving an event, such as an
 8 awards show, the term excludes expenditures solely associated
 9 with the event itself and not directly required by the
 10 production. The term excludes expenditures prior to
 11 certification, with the exception of those incurred for a
 12 commercial, a music video, or the pickup of additional
 13 episodes of a television series within a single season.

14 (h) "Qualified production" means a production in this
 15 state meeting the requirements of this section and the minimum
 16 qualified expenditures and requirements of its appropriate
 17 queue. The term excludes a production:

18 1. In which less than 50 percent of the positions that
 19 make up its production cast and below-the-line production crew
 20 are filled by residents of this state, whose residency is
 21 demonstrated by a valid Florida driver's license or other
 22 state-issued identification confirming residency, or students
 23 enrolled full-time in a film-and-entertainment-related course
 24 of study at an institution of higher education in this state;
 25 or

26 2. That is deemed by the Office of Film and
 27 Entertainment to contain obscene content as defined in s.
 28 847.001(10).

29 (i) "Qualified production company" means a
 30 corporation, limited liability company, partnership, or other
 31 legal entity engaged in producing a qualified production.

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1 (2) CREATION AND PURPOSE OF PROGRAM.--The
 2 entertainment industry financial incentive program is created
 3 within the Office of Film and Entertainment. The purpose of
 4 this program is to encourage the use of this state as a site
 5 for filming and to develop and sustain the workforce and
 6 infrastructure for film and entertainment production.

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

8 (a) A qualified production company in this state
 9 producing a qualified production may submit a program
 10 application to the Office of Film and Entertainment for the
 11 purpose of determining certification. The application must be
 12 submitted no earlier than 1 year before the date the
 13 production is anticipated to start. The applicant shall
 14 provide the office with information required to determine
 15 whether the production is a qualified production and to
 16 determine the qualified expenditures and other information
 17 necessary for the office to determine certification.

18 (b) The Office of Film and Entertainment shall develop
 19 a application form for use in qualifying an applicant as a
 20 qualified production. The form must include, but need not be
 21 limited to, production-related information concerning
 22 employment of residents in this state, a detailed budget of
 23 planned qualified expenditures, and the applicant's signed
 24 affirmation that the information on the form has been verified
 25 and is correct. The Office of Film and Entertainment and local
 26 film commissions shall distribute the form.

27 (c) The Office of Film and Entertainment shall
 28 establish a process by which an application is accepted and
 29 reviewed for certification. The office may request assistance
 30 from a duly appointed local film commission in determining
 31 compliance with this section.

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1 (d) The Office of Film and Entertainment shall review
2 the application within 10 business days after receipt. Upon
3 its determination that the application contains all the
4 information required by this subsection and meets the criteria
5 set out in this section, the office shall qualify the
6 applicant and recommend to the Office of Tourism, Trade, and
7 Economic Development that the applicant be certified. Within 5
8 business days after receipt of the recommendation, the Office
9 of Tourism, Trade, and Economic Development shall reject the
10 recommendation or certify the applicant.

11 (e) The Office of Film and Entertainment shall deny an
12 application if it determines that the application is not
13 complete or the production does not meet the requirements of
14 this section.

15 (f) The Office of Film and Entertainment shall develop
16 a process to verify the actual qualified expenditures of a
17 certified production. The process must require:

18 1. A certified production to submit, in a timely
19 manner after production ends and after making all of its
20 qualified expenditures, data substantiating each qualified
21 expenditure to an independent certified public accountant
22 licensed in this state;

23 2. Such accountant to conduct an audit, at the
24 certified production's expense, to substantiate each qualified
25 expenditure and submit the results as a report, along with all
26 substantiating data, to the Office of Film and Entertainment;
27 and

28 3. The Office of Film and Entertainment to review the
29 accountant's submittal and report to the Office of Tourism,
30 Trade, and Economic Development the final verified amount of
31 actual qualified expenditures made by the certified

1 production.

2 (g) The Office of Film and Entertainment shall ensure
3 that, as a condition of receiving incentive funding under this
4 section, marketing materials promoting this state as a tourist
5 destination or film and entertainment production destination
6 are included, when appropriate, at no cost to the state, which
7 must, at a minimum, include placement in the end credits of a
8 "Filmed in Florida" logo with size and placement commensurate
9 to other logos included in the end credits or, if no logos are
10 used, the statement "Filmed in Florida using Florida's
11 Entertainment Industry Financial Incentive," or a similar
12 statement approved by the Office of Film and Entertainment
13 before such placement. The Office of Film and Entertainment
14 shall develop a "Filmed in Florida" logo and supply it for the
15 purposes specified in this paragraph.

16 (4) PRIORITY FOR INCENTIVE FUNDING; WITHDRAWAL OF
17 ELIGIBILITY; QUEUES.--

18 (a) The priority of a qualified production for
19 incentive funding must be determined on a first-come,
20 first-served basis within its appropriate queue. Each
21 qualified production must be placed into the appropriate queue
22 and is subject to the requirements of that queue.

23 (b) Each qualified production or certified production
24 shall continue on a reasonable schedule, which means beginning
25 principal photography in this state no more than 45 calendar
26 days before or after the date for such commencement which was
27 provided in the program's application under subsection (3).
28 The Office of Tourism, Trade, and Economic Development shall
29 withdraw the eligibility of a qualified production or a
30 certified production for incentive funding if any such
31 production does not continue on a reasonable schedule.

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1 (c) At least 85 percent of incentive funding available
2 under this section in any state fiscal year must be dedicated
3 to the general production queue. Within this queue:

4 1. A qualified production, excluding commercials,
5 music videos, and digital media projects, which demonstrates a
6 minimum of \$625,000 in qualified expenditures is eligible for
7 incentive funding. A qualified production spanning multiple
8 state fiscal years may combine qualified expenditures from
9 such fiscal years to satisfy the threshold.

10 2. A qualified production company that produces
11 national, international, or regional commercials, or music
12 videos may be eligible for incentive funding if it
13 demonstrates a minimum of \$100,000 in qualified expenditures
14 per national, international, or regional commercial or music
15 video and exceeds a combined threshold of \$500,000 after
16 combining actual qualified expenditures from qualified
17 commercials and music videos during a single state fiscal
18 year. After a qualified production company that produces
19 commercials, music videos, or both reaches the threshold of
20 \$500,000, it is eligible to apply for certification for
21 incentive funding.

22 3. An off-season certified production is eligible for
23 an additional 5-percent incentive funding on actual qualified
24 expenditures. An off-season certified production that does not
25 complete 75 percent of principal photography due to disruption
26 caused by a hurricane or tropical storm may not be
27 disqualified from eligibility for the additional 5-percent
28 incentive as a result of the disruption.

29 4. Each qualified production shall make a good faith
30 effort to the existing providers of infrastructure or
31 equipment in this state, including providers of camera gear,

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1 grip and lighting equipment, vehicle providers, and
2 postproduction services when available in-state.

3 (d) Five percent of incentive funding available in any
4 state fiscal year must be dedicated to the independent Florida
5 filmmaker queue. An independent Florida film that meets the
6 criteria of this queue and demonstrates a minimum of \$100,000,
7 but not more than \$625,000, in total qualified expenditures is
8 eligible for incentive funding. To qualify for this queue, a
9 qualified production must:

10 1. Be planned as a feature film or documentary of no
11 less than 70 minutes in length.

12 2. Provide evidence of 50 percent of the financing for
13 its total budget in an escrow account or other form dedicated
14 to the production.

15 3. Do all major postproduction in this state.

16 4. Employ Florida workers in at least six of the
17 following key positions: writer, director, producer, director
18 of photography, star or one of the lead actors, unit
19 production manager, editor, or production designer. As used in
20 this subparagraph, the term "Florida worker" means a person
21 who has been a resident of this state for at least 1 year
22 before a production's application under subsection (3) was
23 submitted or a person who graduated from a film school,
24 college, university, or community college in this state no
25 more than 5 years before such submittal or who is enrolled
26 full-time in such a school, college, or university.

27 (e) Ten percent of incentive funding available under
28 this section in any state fiscal year shall be dedicated to
29 the digital media projects queue. A qualified production that
30 is a digital media project that demonstrates a minimum of
31 \$300,000 in total qualified expenditures is eligible for

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1 incentive funding. As used in this paragraph, the term
 2 "qualified expenditures" means the wages or salaries paid to a
 3 resident of this state for working on a single qualified
 4 digital media project, up to a maximum of \$200,000 in wages or
 5 salaries paid per resident. A qualified production company
 6 producing digital media projects may not qualify for more than
 7 three projects in any 1 fiscal year. Projects that extend
 8 beyond a fiscal year must reapply each fiscal year in order to
 9 be eligible for incentive funding for that year.

10 (5) RULES, POLICIES, AND PROCEDURES.--The Office of
 11 Tourism, Trade, and Economic Development may adopt rules under
 12 ss. 120.536(1) and 120.54 and develop policies and procedures
 13 to administer this section, including, but not limited to,
 14 rules specifying requirements for the application and approval
 15 process.

16 (6) ANNUAL REPORT.--Each October 1, the Office of Film
 17 and Entertainment shall provide an annual report for the
 18 previous fiscal year to the Governor, the President of the
 19 Senate, and the Speaker of the House of Representatives which
 20 outlines the return on investment to the state on funds
 21 appropriated by this act.

22 (7) REPEAL.--This section is repealed July 1, 2010.

23 Section 2. For the 2007-2008 fiscal year, the sum of
 24 \$10 million is appropriated from the General Revenue Fund on a
 25 nonrecurring basis to the Office of Tourism, Trade, and
 26 Economic Development for the Office of Film and Entertainment
 27 for purposes of implementing s. 288.1254, Florida Statutes.
 28 Notwithstanding s. 216.301, Florida Statutes, to the contrary,
 29 the unexpended balance of this appropriation shall not revert
 30 until June 30, 2009.

31 Section 3. This act shall take effect July 1, 2007.

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

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to the entertainment industry;

8 amending s. 288.1254, F.S.; revising the

9 entertainment industry financial incentive

10 program; providing purpose of the program;

11 providing for submittal and approval of an

12 application under the program; providing for

13 review by the Office of Film and Entertainment

14 and the Office of Tourism, Trade, and Economic

15 Development; providing standards for review;

16 providing for verification of which

17 expenditures concerning an entertainment

18 production qualify for incentive funding under

19 the program; requiring inclusion of marketing

20 materials promoting this state as a condition

21 of receiving incentive funding; establishing

22 queues; specifying requirements concerning each

23 queue; authorizing the Office of Tourism,

24 Trade, and Economic Development to adopt rules,

25 policies, and procedures; requiring an annual

26 report to the Governor and the Legislature;

27 providing for future repeal; providing an

28 appropriation; providing an effective date.

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