

By Senator Gruters

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1 A bill to be entitled
2 An act relating to the entertainment industry;
3 creating the Film, Television, and Digital Media
4 Targeted Grant Program within the Department of
5 Economic Opportunity under the supervision of the
6 Commissioner of Film and Entertainment; providing
7 purposes for the program; defining terms; requiring
8 that film, television, and digital media projects
9 being produced in this state meet specified criteria
10 for grant eligibility; authorizing applicants to
11 receive grants up to a specified amount, including
12 bonuses; requiring an applicant that receives funding
13 to make a good faith effort to use existing providers
14 of infrastructure or equipment in this state;
15 establishing application windows for the grant;
16 providing requirements for the department relating to
17 earmarking and setting aside grant funds; providing
18 procedures and requirements for applicants applying
19 for the grant; requiring the commissioner to take
20 specified action within a specified timeframe;
21 specifying that an applicant is only authorized to
22 submit one application per fiscal year unless the
23 applicant is producing certain television programs;
24 creating the Grant Advisory Board within the Office of
25 Film and Entertainment of the department; providing
26 membership requirements for the board; providing
27 meeting requirements for the board; requiring the
28 board to determine a score for each applicant's
29 project using specified criteria; requiring the board

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30 to make a recommendation for certification or
31 rejection of applications within a specified
32 timeframe; requiring the commissioner to determine the
33 priority order and scoring system of the specified
34 criteria with assistance from the board; requiring the
35 board to use certain criteria; requiring the
36 commissioner to take certain actions relating to the
37 certification or denial of applications within a
38 specified timeframe; requiring the department to
39 earmark and set aside funding necessary to fund the
40 total maximum that may be awarded to the qualified
41 projects; requiring the commissioner to develop a
42 verification process to verify the actual qualified
43 expenditures of a qualified project after the
44 project's work in this state is complete; providing
45 requirements for the verification process; requiring
46 that the grant be issued within a specified timeframe
47 upon approval of the final grant amount by the
48 department; requiring the department to deduct a
49 specified percentage of the grant and to credit the
50 amount to the department to offset certain expenses;
51 requiring that certain marketing be included with a
52 project; requiring qualified projects to allow certain
53 persons to visit the production site upon request of
54 the commissioner and after providing the commissioner
55 with certain notice; specifying that a visit to the
56 production site is not required; requiring the
57 department to disqualify a project under certain
58 circumstances; providing for liability and imposing

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59 civil penalties for an applicant that submits
60 fraudulent information; providing for rulemaking;
61 requiring the commissioner to provide an annual report
62 to the Governor and the Legislature on a specified
63 date; providing for the expiration of the program;
64 providing an effective date.
65

66 Be It Enacted by the Legislature of the State of Florida:
67

68 Section 1. Film, Television, and Digital Media Targeted
69 Grant Program.—

70 (1) CREATION AND PURPOSES OF PROGRAM.—The Film, Television,
71 and Digital Media Targeted Grant Program is created within the
72 Department of Economic Opportunity under the supervision of the
73 Commissioner of Film and Entertainment. The purposes of the
74 program are to boost this state's economic prosperity; expand
75 the impact of the film, television, and digital media industries
76 on the economy of this state; and encourage more family-friendly
77 productions in this state.

78 (2) DEFINITIONS.—As used in this act, unless the context
79 otherwise requires, the term:

80 (a) "Board" means the Grant Advisory Board.

81 (b) "Commissioner" means the Commissioner of Film and
82 Entertainment as described in s. 288.1251(1)(b), Florida
83 Statutes.

84 (c) "Department" means the Department of Economic
85 Opportunity.

86 (d) "Digital media project" means a commercial video game
87 that includes at least 30 minutes of game play time. The term

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88 does not include a project that may be considered obscene, as
89 defined in s. 847.001, Florida Statutes.

90 (e) "Family friendly" means having cross-generational
91 appeal; being appropriate in theme, content, and language for a
92 broad family audience; embodying a responsible resolution of
93 issues; and not containing any act of smoking, illicit drug use,
94 sex, nudity, gratuitous violence, or vulgar or profane language.

95 (f) "Film project" means a theatrical, direct-to-video,
96 television, or animated narrative motion picture at least 75
97 minutes in length. The term does not include a project deemed by
98 the office to have content that is obscene, as defined in s.
99 847.001, Florida Statutes.

100 (g) "Florida resident" means a person who has a valid
101 Florida driver license or Florida identification card issued
102 under s. 322.051, Florida Statutes, and has signed an affidavit
103 confirming residency.

104 (h) "Office" means the Office of Film and Entertainment
105 within the department.

106 (i) "Principal photography" means, for a film project or
107 television project, the filming of major or significant
108 components of the project which involve lead actors, or, for a
109 digital media project, the period of time during which the work
110 of the majority of the crew is dedicated solely to the project.

111 (j) "Production expenditures" means the costs of tangible
112 and intangible property used and services performed primarily
113 and customarily during the preproduction, production, and
114 postproduction of a project.

115 1. The term includes, but is not limited to:

116 a. Wages, salaries, or other compensation, including

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117 amounts paid through payroll service companies, for technical
118 and production crews, directors, producers, and performers.

119 b. Rental expenditures for sound stages, backlots,
120 production, editing, digital effects, sound recording, sets, and
121 set construction.

122 c. Rental expenditures for equipment, including, but not
123 limited to, cameras and grip or lighting equipment.

124 d. Expenditures for production meals, craft services,
125 rental cars, and hotels or other rental accommodations.

126 2. The term does not include any costs associated with
127 airfare, development, marketing, or distribution.

128 (k) "Production start date" means:

129 1. For film and television projects, the start date of
130 principal photography, as listed in the project's application.

131 2. For digital media projects, the start date of
132 storyboards or a later date as specified in the project's
133 application.

134 (l)1. "Qualified expenditures" means production
135 expenditures incurred for the following:

136 a. Rented or leased goods or services provided by a vendor
137 or supplier in this state which is registered with the
138 Department of State or the Department of Revenue; which has a
139 physical address, not including a post office box; and which
140 employs one or more Florida residents on a full-time basis. The
141 term does not include rebilled goods or services provided by an
142 in-state company from out-of-state vendors or suppliers. When
143 services provided by the vendor or supplier include personal
144 services or labor, only personal services or labor provided by
145 Florida residents qualifies.

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146 b. Payments to Florida residents in the form of salary or
147 wages up to a maximum of \$200,000 per resident. For purposes of
148 this sub-subparagraph, payments do not include wages for
149 executives, legal staff, workers, or other paid employees who
150 are employed by the project or its parent or affiliate
151 corporation.

152 2. "Qualified expenditures" includes expenditures for
153 renting cars, trucks, and trailers if such car, truck, or
154 trailer is registered with the Department of Highway Safety and
155 Motor Vehicles.

156 3. "Qualified expenditures" does not include expenditures
157 not expressly identified in subparagraphs 1. or 2., expenditures
158 made before qualification for the program, or expenditures
159 related to Internet transactions.

160
161 For the purposes of a television project or a film project, the
162 term includes only those qualified expenditures made within 2
163 fiscal years after the project's first qualified expenditure.
164 For the purposes of a digital media project, the term includes
165 only those qualified expenditures made within 9 months after the
166 project's first qualified expenditure.

167 (m) "Qualified project" means a film project, television
168 project, or digital media project for which a complete
169 application for the program has been submitted to and certified
170 by the commissioner. The term does not include a weather or
171 market program; a sporting event or a sporting event broadcast;
172 a gala; an awards show; a production that solicits funds; a home
173 shopping program; a political program; a documentary; a
174 gambling-related project or production; a concert production; a

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175 news or current events show; a sports or sports recap show; a
176 pornographic production; or any production deemed obscene under
177 chapter 847, Florida Statutes.

178 (n) "Television project" means a television pilot program
179 or series that:

- 180 1. Is a scripted drama, comedy, or animation;
- 181 2. Has a runtime of at least 30 minutes but not more than
182 60 minutes; and
- 183 3. Has a minimum of seven episodes.

184

185 The term does not include a project deemed by the office to have
186 content that is obscene, as defined in s. 847.001, Florida
187 Statutes.

188 (o) "Underutilized area" means any county in this state
189 other than Broward County, Dade County, Orange County, or
190 Seminole County.

191 (3) GRANT ELIGIBILITY.—

192 (a) To be eligible for a grant, an applicant must be
193 producing a project that:

- 194 1. Has projected qualified expenditures of:
 - 195 a. For a film project, at least \$1.5 million;
 - 196 b. For a television series, at least \$500,000 per episode;
 - 197 c. For a television pilot, at least \$1 million; or
 - 198 d. For a digital media project, at least \$1.5 million;
- 199 2. Is projected to employ a crew, including cast and stand-
200 ins, but not including extras, of which at least 60 percent will
201 be Florida residents;
- 202 3. Is projected to spend at least 60 percent of its total
203 budget in this state; and

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204 4. Will not use the state sales tax exemption.

205 (b) A project may receive a grant in the amount of up to 12
206 percent of its verified qualified expenditures. A bonus may be
207 earned in the amount of an additional 3 percentage points, if 75
208 percent of the project's production will take place in an
209 underutilized county or if its content is deemed family
210 friendly. A project may not receive more than one bonus, and the
211 total that may be awarded under any grant may not exceed 15
212 percent of its verified qualified expenditures or \$2 million,
213 whichever is less.

214 (c) Each applicant that receives funding must make a good
215 faith effort to use existing providers of infrastructure or
216 equipment in this state, when available, including providers of
217 camera gear, grip and lighting equipment, vehicles, and
218 postproduction services.

219 (4) APPLICATION WINDOWS.—Applications must be accepted in
220 each fiscal year in which funding is available for the program
221 during two application windows. The first application window is
222 the first 5 business days of each July, and the second
223 application window is the first 5 business days of each January.

224 (a) The department may not earmark or set aside more than
225 60 percent of any appropriated or rolled-over grant funds for
226 any given fiscal year for applications submitted during the
227 first application window. Grant funds not earmarked and set
228 aside for the first application window roll over for use in the
229 second application window.

230 (b) If all grant funds are earmarked and set aside for
231 qualified projects, additional applications may not be accepted
232 until more funds become available to the program.

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233 (5) APPLICATION PROCESS.—

234 (a) A company that plans to produce a film, television, or
235 digital project in this state may submit an application to the
236 commissioner during one of the two application windows. A
237 project must have a production start date that is within 6
238 months after the first day of the application window in which
239 the company submits the application.

240 (b) The application must include:

- 241 1. Project-related employment information, including
242 employment numbers for Florida residents;
243 2. A detailed budget of planned qualified expenditures;
244 3. A detailed distribution plan to assist with determining
245 the potential economic impact of the project in this state;
246 4. The applicant's expected total qualified expenditures
247 for wages paid to Florida residents;
248 5. The applicant's expected total qualified expenditures in
249 this state other than wages;
250 6. For a film project or television project, a final
251 script, a production schedule, a Day out of Days report, and a
252 list of the expected shooting locations;
253 7. For a television project, scripts for two episodes;
254 8. For a digital media project, a detailed game design
255 document; and
256 9. An affirmation signed by the applicant that the
257 information on the application is correct.

258 (c) Within 15 business days after the last business day of
259 each application window, the commissioner shall:

- 260 1. Review all applications submitted during the application
261 window and determine the eligibility of each applicant;

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- 262 2. Determine each applicant's expected qualified
263 expenditures;
- 264 3. Determine the maximum grant amount that each applicant
265 may be eligible for;
- 266 4. Determine whether the applicant's project is deemed
267 family friendly;
- 268 5. Determine whether each applicant or the parent company
269 of the applicant is a corporation registered in this state;
- 270 6. Contact each applicant with any questions, as necessary;
- 271 7. Gather any additional information needed to address the
272 criteria specified under subsection (7); and
- 273 8. Assemble a package containing the details of each
274 applicant's project and deliver it to each board member.
- 275 (d) An applicant may submit only one application per fiscal
276 year. However, an applicant producing a television series may
277 apply for subsequent seasons of that television series within
278 the same fiscal year.
- 279 (6) GRANT ADVISORY BOARD; CREATION; PURPOSE; MEMBERSHIP.—
- 280 (a) The Grant Advisory Board is created within the office.
281 The board shall comply with the requirements of s. 20.052,
282 Florida Statutes, except as otherwise provided in this section.
- 283 (b) The board shall consist of seven members appointed by
284 the commissioner. Of these seven members:
- 285 1. Three shall be members of the Florida Film and
286 Entertainment Advisory Council who were appointed by the
287 Governor;
- 288 2. Two shall be members of the Florida Film and
289 Entertainment Advisory Council who were appointed by the
290 President of the Senate; and

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291 3. Two shall be members of the Florida Film and
292 Entertainment Advisory Council who were appointed by the Speaker
293 of the House of Representatives.

294 (c) The board shall meet within 15 business days after the
295 commissioner provides application material to all of the members
296 of the board as provided in subparagraph (5)(c)8. Subsequent
297 meetings may be held within 10 business days after the initial
298 meeting for that application window. The board may meet in
299 person or by conference call.

300 (d)1. The board shall determine a score for each
301 applicant's project using the criteria specified under
302 subsection (7), with the highest scores going to projects
303 determined to provide the best economic impact and return on
304 investment to the state.

305 2. The board shall make a recommendation for certification
306 or rejection of each application to the commissioner within 10
307 days after the board's first meeting for that application
308 window.

309 (7) CRITERIA FOR DETERMINING PROJECT SCORES.—

310 (a) The priority order and scoring system of the criteria
311 specified in paragraph (b) must be determined by the
312 commissioner, with assistance from the board in advance of the
313 first application window.

314 (b) The board shall use at least the following criteria in
315 determining a project's score:

316 1. The amount of the project's overall qualified
317 expenditures.

318 2. The amount of the project's Florida-resident wages.

319 3. The number of full-time-equivalent jobs created by the

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320 project.

321 4. Whether the project provides pension, health, and
322 welfare benefits to its workforce in this state.

323 5. The estimated direct and indirect tourism benefit of the
324 project, based on submitted distribution plans.

325 6. The duration of Florida-resident employment for the
326 project.

327 7. What percentage of the project, if any, is being made in
328 an underutilized county.

329 8. Whether the applicant is a corporation registered in
330 this state.

331 9. Whether the project is family friendly.

332 10. Whether the project has a Florida-resident writer,
333 producer, or star.

334 11. Whether a Florida film, television, or digital media
335 school will assist with the production of the project.

336 12. Whether the project leadership team has a successful
337 track record.

338 13. The number of Florida-resident veterans hired by the
339 project.

340 14. The number of Florida film school graduates the project
341 has hired as cast or crew.

342 (8) NOTIFICATION OF DECISION.—

343 (a) Within 5 business days after the board makes its
344 recommendations to the commissioner, the commissioner shall:

345 1. Provide a list of qualified projects to the department
346 which includes the associated maximum grant amounts that the
347 respective applicants may receive.

348 2. Notify each applicant of the specified percentage of

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349 qualified expenditures for which the applicant is eligible and
350 the maximum grant amount that the applicant may receive.

351 3. Provide a notice of rejection to each rejected
352 applicant; however, the failure to notify an applicant of its
353 rejection does not deem the applicant's project a qualified
354 project.

355 (b) The commissioner shall make the final determination,
356 giving consideration to the board's recommendations, as to
357 whether an applicant is certified for a grant.

358 (c) Based on the final determination of the commissioner,
359 the department shall earmark and set aside the amount necessary
360 to fund the total maximum that may be awarded for the qualified
361 projects.

362 (9) (a) VERIFICATION PROCESS.—The commissioner shall develop
363 a process to verify the actual qualified expenditures of a
364 qualified project after the project's work in this state is
365 complete. The process must require all of the following:

366 1. Submission to the commissioner, electronically or as a
367 hard copy, by each qualified project within 90 days after making
368 its final qualified expenditure, but not later than 1 year after
369 its production start date of:

370 a. Data substantiating each qualified expenditure, which
371 has been audited by an independent certified public accountant
372 licensed in this state, as required by subparagraph 3.;

373 b. Copies of documents verifying residency of persons
374 represented as being Florida residents;

375 c. The final script;

376 d. The most recent production board and shooting schedule;

377 and

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378 e. The most recent credit list showing where the credits
379 required under subsection (10) will appear.

380 2. Signing, and submission to the commissioner, by the
381 qualified project of an affidavit or written declaration signed
382 under the penalty of perjury as specified in s. 92.525, Florida
383 Statutes, stating that all salaries, wages, and other
384 compensation submitted as qualified expenditures are in
385 compliance with this section.

386 3. The conduct of a compliance audit, at the qualified
387 project's expense, by an independent certified public accountant
388 to substantiate each qualified expenditure and submission of a
389 report of the findings of the audit, including substantiating
390 data, to the commissioner within 45 days after the initial
391 receipt of records from the qualified project.

392 (b) The commissioner shall review the report and data
393 submitted by the certified public accountant within 45 days
394 after receipt of the report and data and report to the
395 department the final verified amount of actual qualified
396 expenditures made by the qualified project and the amount of the
397 grant due to the qualified project.

398 (c) Upon approval by the department of the final grant
399 amount, which may not exceed the maximum specified in the notice
400 provided under subparagraph (8)(a)2., the grant must be issued
401 within 30 days.

402 (d) The department shall deduct one-half of 1 percent of
403 the total grant amount before issuing the grant to the qualified
404 project, and such amount must be credited to the department to
405 offset the cost of the compliance review.

406 (10) MARKETING AND TOURISM REQUIREMENT.—

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407 (a) The commissioner shall ensure, as a condition of
408 receiving a grant under this section, that a qualifying project
409 include marketing promoting this state as a tourist destination
410 or film and entertainment production destination. At a minimum,
411 the marketing must include placement in the end credits of a
412 "Filmed in Florida" or "Produced in Florida" logo with size and
413 placement commensurate to other logos included in the end
414 credits or, if no logos are used, the statement "Filmed in
415 Florida" or "Produced in Florida" or a similar statement
416 approved by the commissioner and the logo of the local film
417 office, if applicable. A digital media project must also supply
418 a 5-second or longer animated logo with "Produced in Florida" or
419 other text, including the logo of the local digital media
420 office, if applicable, as preapproved by the commissioner, in a
421 manner easily seen by a consumer of the digital media project.
422 The commissioner shall provide the logos for the purposes
423 specified in this paragraph, not including the logo for a local
424 digital media office, which must be provided by the applicable
425 office.

426 (b) A qualified project must allow the commissioner, or an
427 affiliate, and up to five guests to visit the production site
428 upon the request of the commissioner. Upon such request, the
429 qualified project must give the commissioner at least 10
430 business days' notice of a visit date and time that is
431 acceptable to the production. The commissioner or an affiliate
432 is not required to make a visit to the set.

433 (c) A qualified project must provide at least five
434 preapproved photos of the production to the commissioner and
435 grant the commissioner use of such photos in promoting this

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436 state as a film, television, or digital media production
437 location or tourist destination.

438 (11) DISQUALIFICATION.—The department shall disqualify a
439 project if the project:

440 (a) Does not begin principal photography in this state
441 within 6 weeks of the project's production start date;

442 (b) Does not abide by the policies, procedures, deadlines,
443 or requirements of the verification process;

444 (c) Does not start production within 6 weeks before or
445 after the production start date;

446 (d) Does not notify the commissioner of any change in the
447 production start date before commencing production; or

448 (e) Submits fraudulent information.

449 (12) FRAUD.—An applicant that submits fraudulent
450 information under this section is liable for reimbursement of
451 the reasonable costs and fees associated with the review,
452 processing, investigation, and prosecution of the fraudulent
453 submission. An applicant that obtains a grant under this section
454 through a claim that is fraudulent shall reimburse the program
455 for the grant awarded and reasonable costs and fees associated
456 with the review, processing, investigation, and prosecution of
457 the fraudulent claim and shall pay a civil penalty in an amount
458 equal to double the grant amount and any criminal penalty to
459 which the applicant may be subject.

460 (13) RULES; POLICIES; PROCEDURES.—The commissioner may
461 adopt rules and shall develop policies and procedures to
462 administer this section, including, but not limited to, rules
463 specifying requirements for the application and approval process
464 and the determination of qualified expenditures.

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465 (14) ANNUAL REPORT.—Each November 1, the commissioner shall
466 provide an annual report on the program for the previous fiscal
467 year to the Governor, the President of the Senate, and the
468 Speaker of the House of Representatives. The report must
469 identify the return on investment associated with, and economic
470 benefits to the state attributable to, the program.

471 (15) EXPIRATION.—The Film, Television, and Digital Media
472 Targeted Grant Program expires June 30, 2020, at which point all
473 remaining appropriated funds not earmarked and set aside for
474 qualified projects must revert to the General Revenue Fund. All
475 remaining appropriated funds must revert to the General Revenue
476 Fund no later than October 31, 2022.

477 Section 2. This act shall take effect upon becoming a law.