

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 Rebate 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 rebate eligibility; authorizing applicants to
11 receive rebates 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 and to
15 employ residents of this state; requiring the
16 commissioner to set application windows for the
17 rebate; providing requirements for the department
18 relating to earmarking and setting aside rebate funds;
19 providing procedures and requirements for applicants
20 applying for the rebate; requiring the commissioner to
21 take specified action within a reasonable period of
22 time; requiring the Florida Film and Entertainment
23 Advisory Council to determine a score for each
24 qualified project using specified criteria; requiring
25 the commissioner to determine the priority order and
26 scoring system of the specified criteria with
27 assistance from the council and certain other persons;
28 requiring the council to use certain criteria;
29 requiring the commissioner to take certain actions

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30 relating to the certification or rejection of
31 qualified projects in a timely manner; requiring the
32 department to earmark and set aside funding necessary
33 to fund the total maximum that may be awarded to the
34 certified projects, if funds are available; requiring
35 the commissioner to develop a process to verify the
36 actual qualified expenditures of a certified project
37 after the project's work in this state is complete;
38 providing requirements for the verification process;
39 requiring that the rebate be issued within a
40 reasonable period of time upon approval of the final
41 rebate amount by the department; requiring that
42 unallocated rebate funds and rebate funds allocated
43 but not awarded during a fiscal year roll over to the
44 next fiscal year; requiring that certain marketing be
45 included with a project; requiring certified projects
46 to allow certain persons to visit the production site
47 upon request of the commissioner and after providing
48 the commissioner with reasonable notice; specifying
49 that the commissioner or his or her affiliate is not
50 required to visit the production site; requiring the
51 department to disqualify a project under certain
52 circumstances; providing for liability and imposing
53 civil penalties for an applicant that submits
54 fraudulent information; providing for rulemaking;
55 requiring the commissioner to provide an annual report
56 to the Governor and the Legislature on a specified
57 date; providing for the expiration of the program;
58 providing an effective date.

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

Section 1. Film, Television, and Digital Media Targeted Rebate Program.—

(1) CREATION AND PURPOSES OF PROGRAM.—The Film, Television, and Digital Media Targeted Rebate Program is created within the Department of Economic Opportunity under the supervision of the Commissioner of Film and Entertainment.

(a) The purpose of the program is to boost this state's economic prosperity by:

1. Creating high-paying jobs;
2. Broadening the film, television, and digital media industry's impact on the state by giving a modest bonus for projects that take place in underutilized areas;
3. Enhancing tourism by choosing projects that encourage tourists to visit this state; and
4. Encouraging more family-friendly productions to be produced in this state.

(b) This purpose shall be accomplished by providing a limited rebate to projects that provide the highest return on investment and economic benefit to the state, as determined after a project has made its expenditures in the state.

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

(a) "Certified project" means a qualified project that has been scored by the council, has been determined by the commissioner to meet or exceed the desired economic impact and other criteria of the program, and has rebate funds allocated to

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88 it based on the project's estimated qualified expenditures.

89 (b) "Commissioner" means the Commissioner of Film and
90 Entertainment as described in s. 288.1251(1)(b), Florida
91 Statutes.

92 (c) "Council" means the Florida Film and Entertainment
93 Advisory Council.

94 (d) "Department" means the Department of Economic
95 Opportunity.

96 (e) "Digital media project" means a commercial video game,
97 including an educational video game, which includes at least 30
98 minutes of game play time. The term does not include a project
99 that may be considered obscene, as defined in s. 847.001,
100 Florida Statutes.

101 (f) "Family friendly" means having cross-generational
102 appeal; being appropriate in theme, content, and language for a
103 broad family audience; embodying a responsible resolution of
104 issues; not containing any act of drunkenness, illicit drug use,
105 sex, nudity, gratuitous violence, or vulgar or profane language;
106 and not portraying smoking any substance in a positive light.

107 (g) "Film project" means a theatrical, direct-to-video,
108 television, cable, Internet, streaming service, or animated
109 narrative motion picture at least 75 minutes in length. The term
110 does not include a project deemed by the office to have content
111 that is obscene, as defined in s. 847.001, Florida Statutes.

112 (h) "Florida resident" means a person who has a valid
113 Florida driver license or Florida identification card issued
114 under s. 322.051, Florida Statutes, and has signed an affidavit
115 confirming residency.

116 (i) "Office" means the Office of Film and Entertainment

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117 within the department.

118 (j) "Principal photography" means, for a film project or
119 television project, the filming of major or significant
120 components of the project which involve lead actors, or, for a
121 digital media project, the period of time during which the work
122 of the majority of the crew is dedicated solely to the project.

123 (k) "Production start date" means:

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

126 2. For digital media projects, the start date of final
127 storyboards or a later date as specified in the project's
128 application.

129 (l)1. "Qualified expenditures" means expenditures made in
130 this state and paid to residents of this state or to businesses
131 registered in this state and made solely for preproduction,
132 production, or postproduction of the qualified project,
133 including the following:

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

144 b. Payments to Florida residents in the form of salary or
145 wages up to a maximum of \$200,000 per resident, including

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146 amounts paid per diem to a worker who is a Florida resident and
147 amounts paid through payroll service companies, and benefits
148 such as pension, health, and welfare payments for technical and
149 production crews, directors, producers, and performers. For
150 purposes of this sub-subparagraph, payments do not include wages
151 for executives, legal staff, or other corporate staff who are
152 not employed to work solely on the project.

153 c. Rented or leased cars, trucks, and trailers if the
154 vehicles or trailers are registered with the Florida Department
155 of Highway Safety and Motor Vehicles.

156 d. Purchases of catered meals and on-set craft service
157 supplies.

158 e. Rented hotel rooms or other accommodations for cast or
159 crew.

160 2. The term does not include expenditures not expressly
161 identified in subparagraph 1., expenditures made before
162 qualification for the program, expenditures made via Internet
163 transactions, expenditures for airfare, or any costs associated
164 with development, marketing, or distribution.

165 3. For the purposes of a digital media project, the term
166 includes only those qualified expenditures made within 9 months
167 after the project's first qualified expenditure.

168 (m) "Qualified project" means a film project, television
169 project, or digital media project that meets the application
170 requirements and for which a complete application for the
171 program has been submitted to the commissioner and accepted for
172 consideration by the office. The term does not include a weather
173 or market program; a sporting event or a sporting event
174 broadcast; a gala; an awards show; a production that solicits

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175 funds; a home shopping program; a political program; a gambling-
176 related project or production; a concert production; a news or
177 current events show; a sports or sports recap show; a
178 pornographic production; or any production deemed obscene under
179 chapter 847, Florida Statutes.

180 (n) "Television project" means a television pilot program
181 or a television series that:

182 1. Is a scripted drama, comedy, animation, or reality show;

183 2. Has a runtime of at least 30 minutes but not more than
184 60 minutes; and

185 3. If the television project is a television series, has a
186 minimum of 7 episodes; or, if the television project is a
187 reality program or series, at least 10 episodes.

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

192 (o) "Underutilized area" means any county in this state
193 other than Broward County, Miami-Dade County, Orange County, or
194 Seminole County.

195 (3) REBATE ELIGIBILITY.-

196 (a) To be eligible for a rebate, an applicant must be
197 registered to do business in this state and must be producing a
198 project that:

199 1. Has projected qualified expenditures of:

200 a. For a film project, at least \$1.5 million;

201 b. For a television series, at least \$500,000 per episode;

202 or

203 c. For a digital media project, at least \$1.5 million;

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204 2. Is projected to employ a crew, including cast and stand-
205 ins, but not including extras, also known as background
206 performers, of which at least 60 percent will be residents of
207 this state and at least one member will be a military veteran;

208 3. Is projected to spend at least 70 percent of its total
209 production days in this state; and

210 4. Will not receive a sales tax certificate of exemption
211 pursuant to s. 288.1258, Florida Statutes, for the project.

212 (b) A project may receive a rebate in the amount of up to
213 20 percent of its verified qualified expenditures. A bonus may
214 be earned in the amount of an additional 3 percentage points if
215 75 percent of the project's production in this state will take
216 place in an underutilized area or if its content is deemed
217 family friendly. A certified project may not receive more than
218 one bonus, and the total that may be awarded under any rebate
219 may not exceed 23 percent of its verified qualified expenditures
220 or \$2 million, whichever is less.

221 (c) A certified project must make a good faith effort to
222 use existing providers of infrastructure or equipment in this
223 state, when available, including providers of camera gear, grip
224 and lighting equipment, vehicles, and postproduction services,
225 and to employ cast and crew who are residents of this state.

226 (4) APPLICATION WINDOWS.—Applications must be accepted for
227 the program during two application windows each fiscal year. The
228 commissioner shall set a start date for both application
229 windows. However, the first application window may begin before
230 the start of the fiscal year and must end no later than 5
231 business days after July 1, and the second must end no later
232 than 5 business days after December 1.

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233 (a) The department may not earmark or set aside more than
234 60 percent of any appropriated or rolled-over rebate funds for
235 any given fiscal year for applications submitted during the
236 first application window. Rebate funds not earmarked and set
237 aside for applicants applying during one application window roll
238 over for use in the next application window.

239 (b) If all rebate funds are earmarked and set aside for
240 certified projects, additional applications may not be accepted
241 until more funds become available for the program.

242 (5) APPLICATION PROCESS.—

243 (a) A company that plans to produce a film, television, or
244 digital project in this state may submit an application to the
245 commissioner during one of the two application windows. Each
246 fiscal year, a project must have a production start date that is
247 within 6 months after July 1 if applying in the first window or
248 within 6 months after January 1 if applying in the second
249 window.

250 (b) An applicant or its parent company may submit an
251 application for no more than five projects in any single fiscal
252 year. However, except in the case of a TV pilot and the
253 television series the pilot is based on being certified within
254 the same fiscal year, only one project per applicant may be
255 certified within a fiscal year.

256 (c) The application must include:

257 1. Proof of funding;

258 2. Project-related employment information, including
259 employment numbers for residents of this state;

260 3. A full line-item budget and a detailed qualified
261 expenditures budget;

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- 262 4. A detailed distribution plan to assist with determining
263 the potential economic impact of the project in this state;
- 264 5. The applicant's expected total qualified expenditures
265 for wages paid to residents of this state;
- 266 6. The applicant's expected total qualified expenditures
267 and nonqualified expenditures in this state;
- 268 7. For a film project, the latest script, a production
269 schedule, a Day Out of Days report, and a list of the expected
270 shooting locations;
- 271 8. For a digital media project, a detailed game design
272 document, including a production schedule;
- 273 9. An affirmation signed by the applicant that the
274 information on the application is correct; and
- 275 10. The applicant's Florida tax identification number.
276 (d) Within a reasonable period of time after the last
277 business day of each application window, the commissioner shall:
- 278 1. Review all applications submitted during the application
279 window and determine the eligibility of each applicant;
- 280 2. Determine each applicant's expected qualified
281 expenditures;
- 282 3. Determine the maximum rebate amount that each eligible
283 applicant may be awarded;
- 284 4. Determine whether an eligible applicant's project is
285 deemed family friendly;
- 286 5. Determine the percentage of the applicant's production,
287 if any, which is proposed to occur in an underutilized area;
- 288 6. Determine whether each eligible applicant is a
289 corporation registered in this state;
- 290 7. Contact each applicant with any questions, as necessary;

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291 8. Gather any additional information needed to address the
292 criteria specified under subsection (6);

293 9. Assemble a package containing the details of each
294 eligible applicant's project and deliver it to each council
295 member; and

296 10. Give notice to the council of the date and time when
297 the council must convene to assess each qualified project. The
298 council may meet in person or by conference call.

299 (e) The council shall determine a score for each qualified
300 project using the criteria specified under subsection (6), with
301 the highest scores going to projects determined to provide the
302 best economic impact and return on investment to this state.

303 (6) CRITERIA FOR DETERMINING PROJECT SCORES.—

304 (a) The priority order and scoring system of the criteria
305 specified in paragraph (b) must be determined by the
306 commissioner, with assistance from the council and other
307 persons, as determined by the commissioner, before the first
308 application window.

309 (b) The council shall use, at a minimum, the following
310 criteria in determining a qualified project's score:

311 1. The amount of the project's overall qualified
312 expenditures.

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

314 3. The number of full-time-equivalent jobs created by the
315 project.

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

318 5. The estimated direct and indirect tourism benefit of the
319 project, based on the submitted distribution plan.

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320 6. The duration of Florida-resident employment for the
321 project.

322 7. What percentage of the project, if any, is being made in
323 an underutilized area.

324 8. Whether the project is family friendly.

325 9. Whether the project has a Florida-resident writer,
326 producer, or star.

327 10. Whether a Florida film, television, or digital media
328 school will assist with the production of the project.

329 11. Whether the project leadership team has a successful
330 track record.

331 12. The number of Florida-resident veterans the project
332 will hire.

333 13. The number of Florida film school graduates the project
334 will hire as cast or crew.

335 (7) NOTIFICATION OF DECISION.—

336 (a) After the council determines a project's score, the
337 commissioner shall, in a timely manner:

338 1. Make a final determination on certifying or rejecting
339 each qualified project, giving consideration to the council's
340 scoring.

341 2. Provide a list of certified projects to the department
342 which includes the associated maximum rebate amounts that the
343 respective applicants may receive.

344 3. Notify each certified project of the specified
345 percentage of qualified expenditures for which it is eligible
346 and the maximum rebate amount that it may receive.

347 4. Provide a notice of rejection to each rejected
348 applicant; however, the failure to notify an applicant of its

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349 rejection does not deem the applicant's project a certified
350 project.

351 (b) Based on the final determination of the commissioner,
352 the department shall earmark and set aside the amount necessary
353 to fund the total maximum that may be awarded for the certified
354 projects, if funds are available.

355 (8) (a) VERIFICATION PROCESS.—The commissioner shall develop
356 a process to verify the actual qualified expenditures of a
357 certified project after the project's work in this state is
358 complete. The process must require all of the following:

359 1. Submission to the commissioner of at least all of the
360 following information, electronically or in hard copy, or both,
361 by each certified project:

362 a. Data substantiating each qualified expenditure, which
363 has been audited by an independent certified public accountant
364 licensed in this state, as required under subparagraph 4.;

365 b. Copies of documents verifying residency of persons
366 represented as being residents of this state;

367 c. The final script;

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

369 e. The most recent credit list showing where the credits
370 required under subsection (9) will appear;

371 f. A cast list and a final crew list with contact
372 information;

373 g. For any veterans employed by the project, a copy of at
374 least one of the veterans' DD Form 214, as issued by the United
375 States Department of Defense, or another acceptable form of
376 identification as specified by the Department of Veterans'
377 Affairs; and

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378 h. Any other information determined necessary by the
379 commissioner.

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

386 3. The information and affidavit required by subparagraphs
387 1. and 2. must be received by the commissioner within 120 days
388 after the certified project has made its last qualified
389 expenditure, but no later than 1 year after its production start
390 date. Pursuant to the rules adopted by the department, the
391 commissioner may, upon a showing of good cause, grant a one-time
392 extension of this deadline.

393 4. The conducting of a compliance audit, at the certified
394 project's expense, by an independent certified public accountant
395 who is a resident of this state to substantiate the qualified
396 expenditures, and submission of a report of the audit findings,
397 including substantiating data, to the commissioner within a
398 reasonable period of time after the initial receipt of records
399 from the certified project.

400 (b) The commissioner shall review the report and data
401 submitted by the certified public accountant within a reasonable
402 period of time after receipt of the report and data and shall
403 report to the department the final verified amount of actual
404 qualified expenditures the certified project made and the amount
405 of the rebate due to the project.

406 (c) Upon approval by the department of the final rebate

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407 amount, which may not exceed the maximum specified in the notice
408 provided under subparagraph (7) (a)3., the rebate must be issued
409 within a reasonable period of time.

410 (d) At the end of the fiscal year, rebate funds that are
411 not allocated to a certified project, and rebate funds allocated
412 but not awarded to a certified project, roll over to the next
413 fiscal year.

414 (9) MARKETING AND TOURISM REQUIREMENT.-

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

433 (b) A certified project must allow the commissioner, or an
434 affiliate, and a minimum of two guests to visit the production
435 site upon the request of the commissioner. Upon such request,

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436 the certified project must give the commissioner reasonable
437 notice of a visit date and time that is acceptable to the
438 production. The commissioner or an affiliate is not required to
439 make a visit to the set.

440 (c) A certified project must provide at least five
441 preapproved photos of the production to the commissioner and
442 grant the commissioner free use of the photos in promoting this
443 state as a film, television, or digital media production
444 location or tourist destination.

445 (10) DISQUALIFICATION.—The department shall disqualify a
446 certified project and may not issue a rebate to the project if
447 the project:

448 (a) Does not begin principal photography in this state
449 within the period beginning 30 days before and ending 90 days
450 after the project's listed production start date. Pursuant to
451 department rule, the commissioner may, upon a showing of good
452 cause, grant a one-time extension of this deadline;

453 (b) Does not abide by the policies, procedures, deadlines,
454 or requirements of the application verification process;

455 (c) Does not notify the commissioner of any change in the
456 production start date before commencing production;

457 (d) Submits fraudulent information; or

458 (e) Uses the state sales tax exemption.

459 (11) FRAUD.—An applicant that submits fraudulent
460 information under this section is liable for reimbursement of
461 the reasonable costs and fees associated with the review,
462 processing, investigation, and prosecution of the fraudulent
463 submission. An applicant that obtains a rebate under this
464 section through a claim that is fraudulent shall reimburse the

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465 program for the rebate awarded and reasonable costs and fees
466 associated with the review, processing, investigation, and
467 prosecution of the fraudulent claim and shall pay a civil
468 penalty in an amount equal to double the rebate amount and any
469 criminal penalty to which the applicant may be subject.

470 (12) RULES; POLICIES; PROCEDURES.—The commissioner may
471 adopt rules and shall develop policies and procedures to
472 administer this section, including, but not limited to, rules
473 specifying requirements for the application and approval process
474 and the determination of qualified expenditures.

475 (13) ANNUAL REPORT.—Each November 1, the commissioner shall
476 provide an annual report on the program for the previous fiscal
477 year to the Governor, the President of the Senate, and the
478 Speaker of the House of Representatives. The report must
479 identify the return on investment associated with, and economic
480 benefits to this state attributable to, the program.

481 (14) EXPIRATION.—The Film, Television, and Digital Media
482 Targeted Rebate Program expires June 30, 2023, at which point
483 all remaining appropriated funds not earmarked and set aside for
484 certified projects must revert to the General Revenue Fund. All
485 remaining appropriated funds must revert to the General Revenue
486 Fund no later than October 31, 2024.

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