

By the Committee on Commerce and Tourism; and Senators Gruters, Flores, Farmer, Stewart, Rouson, Cruz, Berman, Harrell, Gibson, Bracy, Pizzo, Hooper, and Torres

577-02022-20

2020530c1

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

577-02022-20

2020530c1

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 and rebate bonus
37 eligibility of a certified project after the project's
38 work in this state is complete; providing requirements
39 for the verification process; requiring that the
40 rebate be issued within a reasonable period of time
41 upon approval of the final rebate amount by the
42 department; requiring that certain marketing be
43 included with a project; requiring certified projects
44 to allow certain persons to visit the production site
45 upon request of the commissioner and after providing
46 the commissioner with reasonable notice; specifying
47 that the commissioner or his or her affiliate is not
48 required to visit the production site; requiring the
49 department to disqualify a project under certain
50 circumstances; providing for liability and imposing
51 civil penalties for an applicant that submits
52 fraudulent information; providing for rulemaking;
53 requiring the commissioner to provide an annual report
54 to the Governor and the Legislature on a specified
55 date; providing that certain appropriated funds are
56 not subject to reversion; providing for the expiration
57 of the program; providing an effective date.

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577-02022-20

2020530c1

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

60
61 Section 1. Film, Television, and Digital Media Targeted
62 Rebate Program.—

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

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

69 1. Creating high-paying jobs;

70 2. Broadening the film, television, and digital media
71 industry's impact on the state by giving a modest bonus for
72 projects that take place in underutilized areas;

73 3. Enhancing tourism by choosing projects that encourage
74 tourists to visit this state; and

75 4. Encouraging more family-friendly productions to be
76 produced in this state.

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

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

83 (a) "Certified project" means a qualified project that has
84 been scored by the council, has been determined by the
85 commissioner to meet or exceed the desired economic impact and
86 other criteria of the program, and has rebate funds allocated to
87 it based on the project's estimated qualified expenditures.

577-02022-20

2020530c1

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

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

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

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

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

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

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

115 (i) "Office" means the Office of Film and Entertainment
116 within the department.

577-02022-20

2020530c1

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

122 (k) "Production start date" means:

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

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

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

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

143 b. Payments to Florida residents in the form of salary or
144 wages up to a maximum of \$200,000 per resident, including
145 amounts paid per diem to a worker who is a Florida resident and

577-02022-20

2020530c1

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

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

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

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

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

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

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

577-02022-20

2020530c1

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

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

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

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

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

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

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

194 (3) REBATE ELIGIBILITY.—

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

198 1. Has projected qualified expenditures of:

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

200 b. For a television project, at least \$500,000 per episode;

201 or

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

203 2. Is projected to employ a crew, including cast and stand-

577-02022-20

2020530c1

204 ins, but not including extras, also known as background
205 performers, of which at least 60 percent will be residents of
206 this state and at least one member will be a military veteran;

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

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

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

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

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

232 (a) The department may not earmark or set aside more than

577-02022-20

2020530c1

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

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

241 (5) APPLICATION PROCESS.—

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

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

255 (c) The application must include:

- 256 1. Proof of funding;
- 257 2. Project-related employment information, including
258 employment numbers for residents of this state;
- 259 3. A full line-item budget and a detailed qualified
260 expenditures budget;
- 261 4. A detailed distribution plan to assist with determining

577-02022-20

2020530c1

262 the potential economic impact of the project in this state;

263 5. The applicant's expected total qualified expenditures
264 for wages paid to residents of this state;

265 6. The applicant's expected total qualified expenditures
266 and nonqualified expenditures in this state;

267 7. For a film project, the latest script, a production
268 schedule, a Day Out of Days report, and a list of the expected
269 shooting locations;

270 8. For a digital media project, a detailed game design
271 document, including a production schedule;

272 9. For a television project that is a pilot, a final
273 script, a production schedule, a Day Out of Days report, and a
274 list of the expected shooting locations;

275 10. For a television project that is a series, the latest
276 scripts for at least two episodes and a production schedule, a
277 Day Out of Days report, and a list of the expected shooting
278 locations for the first episode;

279 11. An affirmation signed by the applicant that the
280 information on the application is correct;

281 12. The applicant's Florida tax identification number.

282 (d) Within a reasonable period of time after the last
283 business day of each application window, the commissioner shall:

284 1. Review all applications submitted during the application
285 window and determine the eligibility of each applicant;

286 2. Determine each applicant's expected qualified
287 expenditures;

288 3. Determine the maximum rebate amount that each eligible
289 applicant may be awarded;

290 4. Determine whether an eligible applicant's project is

577-02022-20

2020530c1

291 deemed family friendly;

292 5. Determine the percentage of the applicant's production,
293 if any, which is proposed to occur in an underutilized area;

294 6. Determine whether each eligible applicant is a
295 corporation registered in this state;

296 7. Contact each applicant with any questions, as necessary;

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

299 9. Assemble a package containing the details of each
300 eligible applicant's project and deliver it to each council
301 member; and

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

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

309 (6) 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 council and other
313 persons, as determined by the commissioner, before the first
314 application window.

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

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

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

577-02022-20

2020530c1

320 3. The number of full-time-equivalent jobs created by the
321 project.

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

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

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

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

330 8. Whether the project is family friendly.

331 9. Whether the project has a Florida-resident writer,
332 producer, or star.

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

335 11. Whether the project leadership team has a successful
336 track record.

337 12. The number of Florida-resident veterans the project
338 will hire.

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

341 (7) NOTIFICATION OF DECISION.—

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

344 1. Make a final determination on certifying or rejecting
345 each qualified project, giving consideration to the council's
346 scoring.

347 2. Provide a list of certified projects to the department
348 which includes the associated maximum rebate amounts that the

577-02022-20

2020530c1

349 respective applicants may receive.

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

353 4. Provide a notice of rejection to each rejected
354 applicant; however, the failure to notify an applicant of its
355 rejection does not deem the applicant's project a certified
356 project.

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

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

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

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

372 b. Copies of documents verifying residency of persons
373 represented as being residents of this state;

374 c. The final script;

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

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

577-02022-20

2020530c1

378 f. A cast list and a final crew list with contact
379 information;

380 g. For any veterans employed by the project, a copy of at
381 least one of the veterans' DD Form 214, as issued by the United
382 States Department of Defense, or another acceptable form of
383 identification as specified by the Department of Veterans'
384 Affairs; and

385 h. Any other information determined necessary by the
386 commissioner.

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

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

400 4. The conducting of a compliance audit, at the certified
401 project's expense, by an independent certified public accountant
402 who is a resident of this state to substantiate the qualified
403 expenditures, and submission of a report of the audit findings,
404 including substantiating data, to the commissioner within a
405 reasonable period of time after the initial receipt of records
406 from the certified project.

577-02022-20

2020530c1

407 (b) The commissioner shall review the report and data
408 required under paragraph (a) within a reasonable period of time
409 after receipt of the report and data and shall report to the
410 department the final verified amount of actual qualified
411 expenditures the certified project made and the amount of the
412 rebate, including any bonus, due to the project.

413 (c) Upon approval by the department of the final rebate
414 amount, which may not exceed the maximum specified in the notice
415 provided under subparagraph (7)(a)3., the rebate must be issued
416 within a reasonable period of time.

417 (9) MARKETING AND TOURISM REQUIREMENT.—

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

577-02022-20

2020530c1

436 (b) A certified project must allow the commissioner, or an
437 affiliate, and a minimum of two guests to visit the production
438 site upon the request of the commissioner. Upon such request,
439 the certified project must give the commissioner reasonable
440 notice of a visit date and time that is acceptable to the
441 production. The commissioner or an affiliate is not required to
442 make a visit to the set.

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

448 (10) DISQUALIFICATION.—The department shall disqualify a
449 certified project and may not issue a rebate to the project if
450 the project:

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

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

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

460 (d) Submits fraudulent information; or

461 (e) Uses the state sales tax exemption established under s.
462 288.1258, Florida Statutes.

463 (11) FRAUD.—An applicant that submits fraudulent
464 information under this section is liable for reimbursement of

577-02022-20

2020530c1

465 the reasonable costs and fees associated with the review,
466 processing, investigation, and prosecution of the fraudulent
467 submission. An applicant that obtains a rebate under this
468 section through a claim that is fraudulent shall reimburse the
469 program for the rebate awarded and reasonable costs and fees
470 associated with the review, processing, investigation, and
471 prosecution of the fraudulent claim and shall pay a civil
472 penalty in an amount equal to double the rebate amount and any
473 criminal penalty to which the applicant may be subject.

474 (12) RULES; POLICIES; PROCEDURES.—The department may adopt
475 rules and shall develop policies and procedures to administer
476 this section, including, but not limited to, rules specifying
477 requirements for the application and approval process and the
478 determination of qualified expenditures.

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

485 (14) FUNDS NOT SUBJECT TO REVERSION.—Notwithstanding s.
486 216.301, Florida Statutes, funds appropriated for this purpose
487 shall not be subject to reversion.

488 (15) EXPIRATION.—The Film, Television, and Digital Media
489 Targeted Rebate Program expires June 30, 2023, at which point
490 all remaining appropriated funds not earmarked and set aside for
491 certified projects must revert to the General Revenue Fund. All
492 remaining appropriated funds must revert to the General Revenue
493 Fund no later than October 31, 2024.

577-02022-20

2020530c1

494

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