

1 studios; those persons or entities engaged in the
2 preproduction, production, or postproduction of motion
3 pictures, made-for-television movies ~~made for TV motion~~
4 ~~pictures~~, television programming series, commercial
5 advertising, music videos, or sound recordings; and those
6 persons or entities providing products or services directly
7 related to the preproduction, production, or postproduction of
8 motion pictures, made-for-television movies
9 ~~made for TV motion pictures~~, television programming series,
10 commercial advertising, music videos, or sound recordings,
11 including, but not limited to, the broadcast industry.

12 Section 2. Subsections (1), (2), (3), (4), and (7) of
13 section 288.1254, Florida Statutes, are amended to read:

14 288.1254 Entertainment industry financial incentive
15 program; creation; purpose; definitions; application
16 procedure; approval process; reimbursement eligibility;
17 submission of required documentation; recommendations for
18 payment; policies and procedures; fraudulent claims.--

19 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to
20 specific appropriation, there is created within the Office of
21 Film and Entertainment an entertainment industry financial
22 incentive program. The purpose of this program is to encourage
23 the use of this state as a site for filming, ~~and for~~ providing
24 production services for filmed entertainment, ~~motion pictures,~~
25 ~~made for television movies, commercials, music videos,~~
26 ~~industrial and educational films, and television programs by~~
27 ~~the entertainment industry.~~

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

29 (a) "Filmed entertainment" means a theatrical or
30 direct-to-video motion picture, a made-for-television motion
31 picture teleproduction, a commercial, a music video, an

1 industrial or educational film, a promotional video or film, a
2 documentary film, a television pilot, a presentation for a
3 television pilot, a television series, including, but not
4 limited to, a drama, a reality, a comedy, a soap opera, a
5 telenovella, a game show, and a miniseries production, or a
6 digital-media-effects production by the entertainment industry
7 to be sold or displayed in an electronic medium. As used in
8 this paragraph, the term "motion picture" means a motion
9 picture made on or by film, tape, or otherwise and produced by
10 means of a motion picture camera, electronic camera or device,
11 tape device, any combination of the foregoing, or any other
12 means, method, or device now used or which may hereafter be
13 adopted. As used in this paragraph, the term
14 "digital-media-effects" means visual elements created through
15 the modification of already existing or newly created visual
16 elements for film, video, or animated media through the use of
17 digital 2D/3D animation or painting, motion capture, or
18 compositing technologies. For purposes of this section, the
19 term "filmed entertainment" does not include the electronic
20 gaming industry or sporting events.

21 (b) "Production costs" means the costs of real,
22 tangible, and intangible property used and services performed
23 in the production, including preproduction and postproduction,
24 of qualified filmed entertainment. Production costs generally
25 include, but are not limited to:

26 1. Wages, salaries, or other compensation for
27 technical and production crews, directors, producers, and
28 performers who are residents of this state.

29 2. Expenditures for sound stages, backlots, production
30 editing, digital effects, sound recordings, sets, and set
31 construction.

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

3 4. Expenditures for meals, travel, accommodations, and
4 goods used in producing filmed entertainment that is located
5 and doing business in this state total cost of producing
6 filmed entertainment.

7 (c) "Qualified expenditures" means production costs
8 for goods purchased or leased or services purchased, leased,
9 or employed from a resident of this state or a vendor or
10 supplier who is located and doing business in this state, but
11 excluding wages, salaries, or other compensation paid to the
12 two highest-paid employees.

13 (d) "Qualified production" means filmed entertainment
14 that makes expenditures in this state for the total or partial
15 production of filmed entertainment ~~a motion picture,~~
16 ~~made for television movie with a running time of 90 minutes or~~
17 ~~more, commercial, music video, industrial and educational~~
18 ~~film, television series pilot, or television episode.~~

19 Productions that are deemed by the Office of Film and
20 Entertainment to contain obscene content, as defined by the
21 United States Supreme Court, are ~~shall not be considered~~
22 qualified productions. Also, a production is not a qualified
23 production if it is determined that the first day of principal
24 photography in this state occurred on or before the date of
25 submitting its application to the Office of Film and
26 Entertainment prior to certification by the Office of Tourism,
27 Trade, and Economic Development.

28 (e) "Qualified relocation project" means a
29 corporation, limited liability company, partnership, corporate
30 headquarters, or other private entity that is domiciled in
31 another state or country and relocates its operations to this

1 state, is organized under the laws of this or any other state
2 or country, and includes as one of its primary purposes
3 digital-media-effects or motion picture and television
4 production, or postproduction.

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

6 (a) Any company engaged in this state in producing
7 filmed entertainment may submit an application to the Office
8 of Film and Entertainment for the purpose of determining
9 qualification for receipt of reimbursement provided in this
10 section. The office must be provided information required to
11 determine if the production is a qualified production and to
12 determine the qualified expenditures, production costs, and
13 other information necessary for the office to determine both
14 eligibility for and level of reimbursement.

15 (b) A digital-media-effects company in the state which
16 furnishes digital material to filmed entertainment ~~a qualified~~
17 ~~production that is certified by the Office of Film and~~
18 ~~Entertainment~~ may submit an application to the Office of Film
19 and Entertainment for the purpose of determining qualification
20 for receipt of reimbursement authorized by this section. The
21 office must be provided information required to determine if
22 the company is qualified and to determine the amount of
23 reimbursement.

24 (c) Any corporation, limited liability company,
25 partnership, corporate headquarters, or other private entity
26 domiciled in another state which includes as one of its
27 primary purposes digital-media-effects or motion picture and
28 television production and which is considering relocation to
29 this state may submit an application to the Office of Film and
30 Entertainment for the purpose of determining qualification for
31 reimbursement under this section.

1 (d)1. The Office of Film and Entertainment shall
2 establish a process by which an application is accepted and
3 reviewed and reimbursement eligibility and reimbursement
4 amount are determined. The Office of Film and Entertainment
5 may request assistance from a duly appointed local film
6 commission in determining qualifications for reimbursement and
7 compliance.

8 2. The Office of Film and Entertainment shall develop
9 a standardized application form for use in approving a
10 qualified production, a qualified relocation project, or a
11 company qualifying under paragraph (a), paragraph (b), or
12 paragraph (c). The application form must include, but need not
13 be limited to, production-related information on employment,
14 proposed total production budgets, planned expenditures in
15 this state which are intended for use exclusively as an
16 integral part of preproduction, production, or postproduction
17 activities engaged primarily in this state, and a signed
18 affirmation from the Office of Film and Entertainment that the
19 information on the application form has been verified and is
20 correct. The application form shall be distributed to
21 applicants by the Office of Film and Entertainment or local
22 film commissions.

23 3. The Office of Film and Entertainment must complete
24 its review of each application within 5 days after receipt of
25 the completed application, including all required information,
26 and it must notify the applicant of its determination within
27 10 business days after receipt of the completed application
28 and required information.

29 ~~4.2.~~ Upon determination that all criteria are met for
30 qualification for reimbursement, the Office of Film and
31 Entertainment shall notify the applicant of such approval. The

1 office shall also notify the Office of Tourism, Trade, and
2 Economic Development of the applicant approval and amount of
3 reimbursement required. The Office of Tourism, Trade, and
4 Economic Development shall make final determination for actual
5 reimbursement.

6 5.3. The Office of Film and Entertainment shall deny
7 an application if it determines that:

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

10 b. The reimbursement sought does not meet the
11 requirements of this section for such reimbursement.

12 ~~(c) The Office of Film and Entertainment shall develop~~
13 ~~a standardized application form for use in approving a~~
14 ~~qualified production, a qualified relocation project, or a~~
15 ~~company qualifying under paragraph (b). The application form~~
16 ~~must include, but is not limited to, production related~~
17 ~~information on employment, proposed total production budgets,~~
18 ~~planned expenditures in this state which are intended for use~~
19 ~~exclusively as an integral part of preproduction, production,~~
20 ~~or postproduction activities engaged in primarily in this~~
21 ~~state, and a signed affirmation from the Office of Film and~~
22 ~~Entertainment that the information on the application form has~~
23 ~~been verified and is correct. The application form shall be~~
24 ~~distributed to applicants by the Office of Film and~~
25 ~~Entertainment or local film commissions.~~

26 ~~(f) The Office of Film and Entertainment must complete~~
27 ~~its review of each application within 5 days after receipt of~~
28 ~~the completed application, including all required information,~~
29 ~~and it must notify the applicant of its determination within~~
30 ~~10 business days after receipt of the completed application~~
31 ~~and required information.~~

1 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
2 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

3 (a) A ~~qualified~~ production that is qualified certified
4 by the Office of Film and Entertainment and is certified by
5 the Office of Tourism, Trade, and Economic Development is
6 eligible for ~~the following financial incentives from the~~
7 ~~state:~~

8 ~~1-~~ a reimbursement of up to 15 percent of its
9 qualifying expenditures in this state on a filmed
10 entertainment program that ~~motion picture, made for television~~
11 ~~movie with a running time of 90 minutes or more, commercial,~~
12 ~~music video, industrial film, educational film, television~~
13 ~~series pilot, or television episode~~ that demonstrates a
14 minimum of \$850,000 in total qualified expenditures for the
15 entire run of the project, versus the budget on a single
16 episode, within the fiscal year from July 1 to June 30.

17 However, the maximum reimbursement that may be made with
18 respect to any filmed entertainment program ~~a motion picture~~
19 is \$2 million, ~~the maximum reimbursement that may be made with~~
20 ~~respect to a made for television movie or television series~~
21 ~~pilot with a running time of 90 minutes or more is \$450,000,~~
22 ~~the maximum reimbursement that may be made with respect to any~~
23 ~~single television series pilot or television episode is~~
24 ~~\$150,000, the maximum reimbursement that may be made with~~
25 ~~respect to a music video or commercial is \$25,000, and the~~
26 ~~maximum reimbursement that may be made with respect to an~~
27 ~~industrial film or an educational film is \$15,000. All noted~~
28 reimbursements under this section are subject to
29 appropriation. Payments under this section in a fiscal year
30 shall be made to qualified productions according to a
31 production's principal photography start date, for those

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

23 1. Theatrical or direct-to-video motion pictures,
24 made-for-television movies, commercials, music videos,
25 industrial and educational films, promotional videos or films,
26 documentary films, television specials, and
27 digital-media-effects productions by the entertainment
28 industry to be sold or displayed in an electronic medium shall
29 have their own separate queue established, and such queue
30 shall have dedicated to it 60 percent of all of the state
31 incentive money.

1 2. Television pilots, presentations for television
2 pilots, or television series, including, but not limited to,
3 drama, reality, comedy, soap opera, telenovella, game show, or
4 miniseries productions, by the entertainment industry to be
5 sold or displayed in an electronic medium shall have their own
6 separate queue established, and such queue shall have
7 dedicated to it 40 percent of all of the state incentive
8 money. Qualified expenditures for which reimbursement shall be
9 made include salaries and employment benefits paid for
10 services rendered in this state; rents for real and personal
11 property used in the production; payments for preproduction,
12 production, postproduction, and digital media effects services
13 rendered in this state; and cost of set construction.
14 ~~Reimbursement may not be authorized for salaries of the two~~
15 ~~highest paid actors. Salaries of other actors are~~
16 ~~reimbursable.~~

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

29 (c) A qualified relocation project that is certified
30 by the Office of Film and Entertainment is eligible for a
31 one-time incentive payment in an amount equal to 5 percent of

1 | its annual gross revenues before taxes for the first 12 months
2 | of conducting business in its Florida domicile or \$200,000,
3 | whichever is less. A company applying for payment must submit
4 | documentation as required by the Office of Film and
5 | Entertainment for determination of eligibility of claimed
6 | billing and determination of the amount of payment for which
7 | the company is eligible.

8 | (d) A qualified production, a digital-media-effects
9 | company, or a qualified relocation project applying for a
10 | payment under this section must submit documentation for
11 | claimed qualified expenditures to the Office of Film and
12 | Entertainment.

13 | (e) The Office of Film and Entertainment shall notify
14 | the Office of Tourism, Trade, and Economic Development whether
15 | an applicant meets the criteria for reimbursement and shall
16 | recommend the reimbursement amount. The Office of Tourism,
17 | Trade, and Economic Development shall make the final
18 | determination for actual reimbursement.

19 | (7) ANNUAL REPORT.--The Office of Film and
20 | Entertainment shall provide an annual report for the previous
21 | fiscal year, due October ~~January~~ 1, to the Governor, the
22 | President of the Senate, and the Speaker of the House of
23 | Representatives outlining the return on investment to the
24 | state on funds expended pursuant to this section.

25 | Section 3. This act shall take effect July 1, 2005.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1372

The committee substitute differs from the bill as filed in that it:

1. Expands the definition of "filmed entertainment" to include TV pilots and presentations for TV pilots, thereby making them eligible for financial incentives;
2. Deletes the proposed retroactive application of the definition of "motion picture";
3. Restores the inclusion of "goods purchased or leased" in the definition of "qualified expenditures"; and
4. Replaces "long form television productions" with "TV pilots and presentations for TV pilots" as a type of filmed entertainment eligible for financial incentives in the second queue.