



**Conference Committee on
Senate Budget Subcommittee on Transportation,
Tourism, and Economic Development Appropriations/
House Finance & Tax Committee**

House Film Provisions

House Offer # 1

Meeting Packet

Wednesday, April 27, 2011

212 Knott Building

ISSUE	HOUSE FILM PROVISIONS
Obscene Content	Removes OFE as the entity that deems whether or not productions contain obscene content. (10-11; 83-84)
Re-billed Goods	Excludes from qualified expenditures re-billed goods or services provided by an in-state company from out-of-state vendors or suppliers. (43-45)
Qualified Digital Media Production Facility	5% bonus on expenditures at a "Qualified Digital Media Production Facility" if more than 50% of a production's qualified expenditures are at such a facility. Such a facility is defined as a building or series of buildings (and improvements) in which data processing, visualization, and sound synchronization technologies are regularly applied for the production of qualified digital media projects or the digital animation components of qualified productions (85-90; 233-247)
Qualified production Facility	5% bonus on expenditures at a "Qualified Production Facility" if more than 50% of a production's principal photography are there; the facility must have regular filming activity for film or television occur for a period of no less than one year and must contain at least one sound stage of at least 7,800 square feet. (91-96; 233-247)
Underutilized Region Bonus Credits	Splits Florida into 5 regions, 5% bonus to any production with 85% of its expenditures in a region that receives less than their prorated(by population) share of tax credits.(97-135; 216-219)
Two Season Limitation (Hi Imp TV)	High impact series may apply for a second season before being picked up, but no more than two seasons at a time. (142-150)
Proof of Financing	90 Day deadline for an applicant to present proof of financing to OFE. (154-161)
Cap on Television	If more than 25 percent of the sum of total tax credits awarded to productions after July 1, 2010 and total tax credits certified, but not yet, awarded to productions currently in this state has been awarded for television series, then no television series or pilot shall be eligible for tax credits under this subparagraph. (188-193)
Queue for HI Imp TV	HI TV series will only be granted first position if less than 25% of total credits awarded and certified but not yet awarded after 7/1/2011 are going to television (194-215)
Queue for Digital Media	Digital Media projects will be granted first position if less than 20% of credits awarded and certified but not yet awarded after 7/1/2011 are going to digital media projects (194-215)
Bonus Student Credit	Additional 15% credit for compensation to students enrolled full-time in film & entertainment or digital media-related course of study at a Florida institution of higher learning. The additional credit also applies to persons who are hired within 12 months of graduation from such a course of study, applicable to the first 12 months of compensation. (220-222)
Total Cap	The numerous new tax credits notwithstanding, 30% cap on total credits awarded per production or project (242-244)
Tax Credit Transfers	Allows an initial transferee of tax credits a one-time transfer of unused credits to no more than two subsequent transferees. (300-304)
New Reporting Requirements	The annual report to the legislature will now include an estimate of full time equivalent positions created and break down the geographic distribution of productions receiving credits (317-322)
Increased Funding	For the each of the three remaining years, increases the allocation from \$38M to \$50M a year (312)

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative(s) Insert Sponsor offered the following:

2
3 **Amendment (with directory amendment)**

4 Remove lines 607-832 and insert:

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

6 (b) "Digital media project" means a production of
7 interactive entertainment that is produced for distribution in
8 commercial or educational markets. The term includes a video
9 game or production intended for Internet or wireless
10 distribution. The term does not include a production that ~~deemed~~
11 ~~by the Office of Film and Entertainment to contain~~ s obscene
12 content as defined in s. 847.001(10).

13 (f) "Production" means a theatrical or direct-to-video
14 motion picture; a made-for-television motion picture; visual
15 effects or digital animation sequences produced in conjunction

Amendment No.

16 with a motion picture; a commercial; a music video; an
17 industrial or educational film; an infomercial; a documentary
18 film; a television pilot program; a presentation for a
19 television pilot program; a television series, including, but
20 not limited to, a drama, a reality show, a comedy, a soap opera,
21 a telenovela, a game show, an awards show, or a miniseries
22 production; or a digital media project by the entertainment
23 industry. One season of a television series is considered one
24 production. The term does not include a weather or market
25 program; a sporting event; a sports show; a gala; a production
26 that solicits funds; a home shopping program; a political
27 program; a political documentary; political advertising; a
28 gambling-related project or production; a concert production; or
29 a local, regional, or Internet-distributed-only news show,
30 current-events show, pornographic production, or current-affairs
31 show. A production may be produced on or by film, tape, or
32 otherwise by means of a motion picture camera; electronic camera
33 or device; tape device; computer; any combination of the
34 foregoing; or any other means, method, or device.

35 (h) "Qualified expenditures" means production expenditures
36 incurred in this state by a qualified production for:

37 1. Goods purchased or leased from, or services, including,
38 but not limited to, insurance costs and bonding, payroll
39 services, and legal fees, which are provided by, a vendor or
40 supplier in this state that is registered with the Department of
41 State or the Department of Revenue, has a physical location in
42 this state, and employs one or more legal residents of this
43 state. This does not include re-billed goods or services

Amendment No.

44 provided by an in-state company from out-of-state vendors or
45 suppliers. When services are provided by the vendor or supplier
46 include personal services or labor, only personal services or
47 labor provided by residents of this state, evidenced by the
48 required documentation of residency in this state, qualify.

49 2. Payments to legal residents of this state in the form
50 of salary, wages, or other compensation up to a maximum of
51 \$400,000 per resident unless otherwise specified in subsection
52 (4). A completed declaration of residency in this state must
53 accompany the documentation submitted to the office for
54 reimbursement.

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56 For a qualified production involving an event, such as an awards
57 show, the term does not include expenditures solely associated
58 with the event itself and not directly required by the
59 production. The term does not include expenditures incurred
60 before certification, with the exception of those incurred for a
61 commercial, a music video, or the pickup of additional episodes
62 of a high-impact television series within a single season. Under
63 no circumstances may the qualified production include in the
64 calculation for qualified expenditures the original purchase
65 price for equipment or other tangible property that is later
66 sold or transferred by the qualified production for
67 consideration. In such cases, the qualified expenditure is the
68 net of the original purchase price minus the consideration
69 received upon sale or transfer.

Amendment No.

70 (i) "Qualified production" means a production in this
71 state meeting the requirements of this section. The term does
72 not include a production:

73 1. In which, for the first 2 years of the incentive
74 program, less than 50 percent, and thereafter, less than 60
75 percent, of the positions that make up its production cast and
76 below-the-line production crew, or, in the case of digital media
77 projects, less than 75 percent of such positions, are filled by
78 legal residents of this state, whose residency is demonstrated
79 by a valid Florida driver's license or other state-issued
80 identification confirming residency, or students enrolled full-
81 time in a film-and-entertainment-related course of study at an
82 institution of higher education in this state; or

83 2. ~~That is deemed by the Office of Film and Entertainment~~
84 ~~to~~ contains obscene content as defined in s. 847.001(10).

85 (k) "Qualified digital media production facility" means a
86 building or series of buildings and their improvements in which
87 data processing, visualization and sound synchronization
88 technologies are regularly applied for the production of
89 qualified digital media projects or the digital animation
90 components of qualified productions.

91 (l) "Qualified production facility" means a building or
92 complex of buildings and their improvements and associated
93 backlot facilities in which regular filming activity for film or
94 television has occurred for a period of no less than one year
95 and which contain at least one sound stage of at least 7,800
96 square feet.

Amendment No.

97 (m) "Regional population ratio" means the ratio of the
98 population of a region to the population of this state. The
99 regional population ratio applicable to a given fiscal year is
100 the regional population ratio calculated by the Office of Film
101 and Entertainment using the latest official estimates of
102 population certified under s. 186.901, available on the first
103 day of that fiscal year.

104 (n) "Regional tax credit ratio" means a ratio the
105 numerator of which is of the sum of tax credits awarded to
106 productions in a region to date plus the tax credits certified,
107 but not yet awarded, to productions currently in that region and
108 the denominator of which is the sum of all tax credits awarded
109 in the state to date plus all tax credits certified, but not yet
110 awarded, to productions currently in the state. The regional tax
111 credit ratio applicable to a given year is the regional tax
112 credit ratio calculated by the Office of Film and Entertainment
113 using credit award and certification information available on
114 the first day of that fiscal year.

115 (o) "Underutilized region" for a given state fiscal year
116 means a region with a regional tax credit ratio applicable to
117 that fiscal year that is lower than its regional population
118 ratio applicable to that fiscal year. The following regions are
119 established for purposes of making this determination:

120 1. North Region, consisting of Alachua, Baker, Bay,
121 Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,
122 Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,
123 Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,

Amendment No.

124 Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,
125 Union, Wakulla, Walton, and Washington counties.

126 2. Central East Region, consisting of Brevard, Flagler,
127 Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.
128 Lucie, and Volusia counties.

129 3. Central West Region, consisting of Citrus, Hernando,
130 Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,
131 and Sumter counties.

132 4. Southwest Region, consisting of Charlotte, Collier,
133 DeSoto, Glades, Hardee, Hendry, Highlands, and Lee counties.

134 5. Southeast Region, consisting of Broward, Martin, Miami-
135 Dade, Monroe, and Palm Beach counties.

136 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

137 (c) Application process.—The Office of Film and
138 Entertainment shall establish a process by which an application
139 is accepted and reviewed and by which tax credit eligibility and
140 award amount are determined. The Office of Film and
141 Entertainment may request assistance from a duly appointed local
142 film commission in determining compliance with this section. A
143 certified high-impact television series may submit an initial
144 application for no more than two successive seasons,
145 notwithstanding the fact that the successive seasons have not
146 been ordered. The successive season's qualified expenditure
147 amounts shall be based on the current season's estimated
148 qualified expenditures. Upon the completion of production of
149 each season, a high-impact television series may submit an
150 application for no more than one additional season.

Amendment No.

151 (e) Grounds for denial.—The Office of Film and
152 Entertainment shall deny an application if it determines that
153 the application is not complete or the production or application
154 does not meet the requirements of this section. Within 90 days
155 after submitting a program application, except with respect to
156 applications in the independent and emerging media queue, a
157 production must provide proof of project financing to the Office
158 of Film and Entertainment, otherwise the project is deemed
159 denied and withdrawn. A project that has been withdrawn may
160 submit a new application upon providing the Office of Film and
161 Entertainment proof of financing.

162 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
163 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
164 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
165 ACQUISITIONS.—

166 (b) Tax credit eligibility.—

167 1. General production queue.—Ninety-four percent of tax
168 credits authorized pursuant to subsection (6) in any state
169 fiscal year must be dedicated to the general production queue.
170 The general production queue consists of all qualified
171 productions other than those eligible for the commercial and
172 music video queue or the independent and emerging media
173 production queue. A qualified production that demonstrates a
174 minimum of \$625,000 in qualified expenditures is eligible for
175 tax credits equal to 20 percent of its actual qualified
176 expenditures, up to a maximum of \$8 million. A qualified
177 production that incurs qualified expenditures during multiple

Amendment No.

178 state fiscal years may combine those expenditures to satisfy the
179 \$625,000 minimum threshold.

180 a. An off-season certified production that is a feature
181 film, independent film, or television series or pilot is
182 eligible for an additional 5-percent tax credit on actual
183 qualified expenditures. An off-season certified production that
184 does not complete 75 percent of principal photography due to a
185 disruption caused by a hurricane or tropical storm may not be
186 disqualified from eligibility for the additional 5-percent
187 credit as a result of the disruption.

188 b. If more than 25 percent of the sum of total tax credits
189 awarded to productions after July 1, 2010 and total tax credits
190 certified, but not yet awarded to productions currently in this
191 state has been awarded for television series, then no television
192 series or pilot shall be eligible for tax credits under this
193 subparagraph.

194 c. The calculations required by this sub-subparagraph
195 shall use only credits available to be certified and awarded on
196 or after July 1, 2011.

197 (I) If the provisions of sub-subparagraph b. are not
198 applicable, if less than 25 percent of the sum of the total tax
199 credits awarded to productions and the total tax credits
200 certified, but not yet awarded, to productions currently in this
201 state has been to high-impact television series, any A qualified
202 high-impact television series shall be allowed first position in
203 this queue for tax credit awards not yet certified.

204 (II) If less than 20 percent of the sum of the total tax
205 credits awarded to productions and the total tax credits

Amendment No.

206 certified, but not yet awarded, to productions currently in this
207 state has been to digital media projects, any digital media
208 project with qualified expenditures of greater than \$4,500,000
209 shall be allowed first position in this queue for tax credit
210 awards not yet certified.

211 (III) For the purposes of determining position between a
212 high-impact television series allowed first position and a
213 digital media project allowed first position under this sub-
214 subparagraph, tax credits shall be awarded on a first-come,
215 first-served basis.

216 d. A qualified production that incurs at least 85 percent
217 of its qualified expenditures within a region designated as an
218 underutilized region at the time that the production is
219 certified is eligible for an additional 5 percent tax credit.

220 e. Any qualified production that employs students enrolled
221 full-time in a film and entertainment-related or digital media-
222 related course of study at an institution of higher education in
223 this state is eligible for an additional 15 percent tax credit
224 on qualified expenditures that are wages, salaries, or other
225 compensation paid to such students. The additional 15 percent tax
226 credit shall also be applicable to persons hired within 12
227 months of graduating from a film and entertainment-related or
228 digital media-related course of study at an institution of
229 higher education in this state. The additional 15 percent tax
230 credit shall apply to qualified expenditures that are wages,
231 salaries, or other compensation paid to such recent graduates
232 for one year from the date of hiring.

Amendment No.

233 f. A qualified production for which 50 percent or more of
234 its principal photography occurs at a qualified production
235 facility, or a qualified digital media project or the digital
236 animation component of a qualified production for which 50
237 percent or more of the project's or component's qualified
238 expenditures are related to a qualified digital media production
239 facility, shall be eligible for an additional 5 percent tax
240 credit on actual qualified expenditures for production activity
241 at that facility.

242 g. No qualified production shall be eligible for tax
243 credits provided under this paragraph totaling more than 30
244 percent of their actual qualified expenses.

245 2. Commercial and music video queue.—Three percent of tax
246 credits authorized pursuant to subsection (6) in any state
247 fiscal year must be dedicated to the commercial and music video
248 queue. A qualified production company that produces national or
249 regional commercials or music videos may be eligible for a tax
250 credit award if it demonstrates a minimum of \$100,000 in
251 qualified expenditures per national or regional commercial or
252 music video and exceeds a combined threshold of \$500,000 after
253 combining actual qualified expenditures from qualified
254 commercials and music videos during a single state fiscal year.
255 After a qualified production company that produces commercials,
256 music videos, or both reaches the threshold of \$500,000, it is
257 eligible to apply for certification for a tax credit award. The
258 maximum credit award shall be equal to 20 percent of its actual
259 qualified expenditures up to a maximum of \$500,000. If there is
260 a surplus at the end of a fiscal year after the Office of Film

Amendment No.

261 and Entertainment certifies and determines the tax credits for
262 all qualified commercial and video projects, such surplus tax
263 credits shall be carried forward to the following fiscal year
264 and be available to any eligible qualified productions under the
265 general production queue.

266 3. Independent and emerging media production queue.—Three
267 percent of tax credits authorized pursuant to subsection (6) in
268 any state fiscal year must be dedicated to the independent and
269 emerging media production queue. This queue is intended to
270 encourage Florida independent film and emerging media
271 production. Any qualified production, excluding commercials,
272 infomercials, or music videos, that demonstrates at least
273 \$100,000, but not more than \$625,000, in total qualified
274 expenditures is eligible for tax credits equal to 20 percent of
275 its actual qualified expenditures. If a surplus exists at the
276 end of a fiscal year after the Office of Film and Entertainment
277 certifies and determines the tax credits for all qualified
278 independent and emerging media production projects, such surplus
279 tax credits shall be carried forward to the following fiscal
280 year and be available to any eligible qualified productions
281 under the general production queue.

282 4. Family-friendly productions.—A certified theatrical or
283 direct-to-video motion picture production or video game
284 determined by the Commissioner of Film and Entertainment, with
285 the advice of the Florida Film and Entertainment Advisory
286 Council, to be family-friendly, based on the review of the
287 script and the review of the final release version, is eligible
288 for an additional tax credit equal to 5 percent of its actual

Amendment No.

289 qualified expenditures. Family-friendly productions are those
290 that have cross-generational appeal; would be considered
291 suitable for viewing by children age 5 or older; are appropriate
292 in theme, content, and language for a broad family audience;
293 embody a responsible resolution of issues; and do not exhibit or
294 imply any act of smoking, sex, nudity, or vulgar or profane
295 language.

296 (5) TRANSFER OF TAX CREDITS.—

297 (c) Transferee rights and limitations.—The transferee is
298 subject to the same rights and limitations as the certified
299 production company awarded the tax credit, except that the
300 initial transferee shall be permitted a one-time transfer of
301 unused credits to no more than two subsequent transferees, and
302 such transfers must occur in the same taxable year as the
303 credits were received by the initial transferee, after which the
304 subsequent transferees may not sell or otherwise transfer the
305 tax credits.

306 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

307 (a) The aggregate amount of the tax credits that may be
308 certified pursuant to paragraph (3)(d) may not exceed:

- 309 1. For fiscal year 2010-2011, \$53.5 million.
310 2. For fiscal year 2011-2012, \$74.5 million.
311 3. For fiscal years 2012-2013, 2013-2014, and 2014-2015,
312 \$50 ~~\$38~~ million per fiscal year.

313 (10) ANNUAL REPORT.—Each October 1, the Office of Film and
314 Entertainment shall provide an annual report for the previous
315 fiscal year to the Governor, the President of the Senate, and
316 the Speaker of the House of Representatives which outlines the

Amendment No.

317 return on investment and economic benefits to the state. The
318 report shall also include an estimate of the full-time
319 equivalent positions created by each production that received
320 tax credits pursuant to s. 288.1254 and information relating to
321 the distribution of productions receiving credits by geographic
322 region and type of production.

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D I R E C T O R Y A M E N D M E N T

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Remove lines 600-602 and insert:

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Section 16. Paragraphs (b), (h), and (i) of subsection
(1), paragraphs (c) and (e) of subsection (3), paragraph (b) of
subsection (4), paragraph (c) of subsection (5), paragraph (a)
of subsection (7), and subsection (10) of section 288.1254,
Florida