



Finance and Tax Committee

Thursday, February 12, 2015

10:00 a.m. – 12:30 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Committee



Steve Crisafulli
Speaker

Matt Gaetz
Chair

AGENDA

February 12, 2015
10:00 a.m. – 12:30 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. *Consideration of the following bill(s):*
 - HB 213 Property Appraisers by Moraitis
 - HB 361 Military Housing Ad Valorem Tax Exemptions by Trumbull
 - HB 489 Value Adjustment Board Proceedings by Sullivan
 - HB 4007 Division of Bond Finance by Gaetz
- IV. Workshop on Draft Concept Related to Ad Valorem Tax Save-Our-Homes "Recapture"
- V. Discussion of Entertainment Industry Tax Credit Program
- VI. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 213 Property Appraisers
SPONSOR(S): Moraitis, Jr.
TIED BILLS: IDEN./SIM. **BILLS:** SB 266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan <i>RD</i>	Langston <i>RL</i>
2) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Current law provides that property appraisers are to submit a proposed budget for the operation of the appraiser's office to the Department of Revenue (DOR). The DOR may amend the initial budget submission. After reviewing further information that may be submitted by the property appraiser and appropriate board of county commissioners (board), the DOR issues a final budget determination. The property appraiser or board may appeal the DOR's final budget to the Governor and Cabinet sitting as the Administration Commission. The Administration Commission has discretion as to whether to accept the appeal or not. The DOR-approved budget request, as amended by the Administration Commission, shall be the budget for the property appraiser in the ensuing local fiscal year.

The bill provides that boards of county commissioners must fund property appraisers according to the amount determined by the DOR in its final budget determination, and must fund the department-approved budget during the pendency of an ongoing appeal to the Administration Commission. A county's obligation to fund the property appraiser's office at the level set by the DOR is not affected merely by the filing of an appeal to the Administration Commission. Only if the Commission chooses to amend the budget will the county's obligation change.

The bill is expected to have no impact on state or local government revenue or spending levels.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Process for Determining the Property Appraiser's Budget

Current law provides that property appraisers are to submit a proposed budget for the operation of the appraiser's office to the Department of Revenue (DOR) on or before June 1 of each year.¹ The property appraiser is required to submit the proposed budget to the appropriate board of county commissioners (board) at the same time. The DOR reviews the budget request and may amend the budgeted amount "as it deems necessary, in order that the budget be neither inadequate nor excessive."²

On or before July 15, the DOR notifies both the property appraiser and the board of its tentative budget determination. The property appraiser and board have until August 14 to submit additional information to the DOR if they choose to do so. The DOR issues its final budget determination on or before August 15.³

The property appraiser or board may appeal the DOR's final budget to the Governor and Cabinet sitting as the Administration Commission.⁴ The appeal must be filed no later than 15 days after the conclusion of the public hearing held pursuant to s. 200.065(2)(d), F.S. (final adoption of the county millage rate and budget).⁵ The Administration Commission has discretion as to whether to accept the appeal or not. Upon completion of this process, the resulting budget request "as approved by the department and as amended by the commission...become[s] the operating budget of the property appraiser for the ensuing fiscal year beginning October 1..."⁶

In the context of billing procedures between the property appraiser and the board, current law provides that the "budget of the property appraiser's office, as approved by the DOR, shall be the basis upon which the several tax authorities of each county (i.e., the boards)...shall be billed by the property appraiser for services rendered."⁷ Further, current law provides that "payments shall be made quarterly by each such taxing authority."⁸

Board of County Commissioners of Broward County vs. Lori Parrish, Broward County Property Appraiser

The Board of County Commissioners of Broward County (BOCC) disagreed with the Broward County Property Appraiser (Appraiser) as to the appropriate level of funding that it should be required to provide for the operation of the Appraiser's office for Fiscal Year 2014. After going through the statutory budget process described above, the DOR set the Appraiser's final budget at \$18,712,207.⁹ The BOCC appealed the DOR's final budget determination to the Administration Commission,¹⁰ and, despite DOR approval, funded the Appraiser at a lower amount (\$16,882,210).¹¹ The Appraiser sued the BOCC, and

¹ s. 195.087(1)(a), F.S.

² Id.

³ Id.

⁴ s. 195.087(1)(b), F.S.

⁵ Id.

⁶ Id.

⁷ s. 192.091(1)(a)

⁸ s. 192.091(1)(b), F.S.

⁹ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101, 4th DCA (December 10, 2014).

¹⁰ The Administration Commission did not hear the appeal.

¹¹ Broward County, Office of Management and Budget, Budget Archives, Fiscal Year 2014 Adopted Operating Budget, available at: <http://www.broward.org/Budget/Pages/Archives.aspx> (last viewed February 5, 2015).

asked the court to determine which level the BOCC was required to fund the Appraiser's office at while the appeal was pending: the higher amount approved by the DOR or the lower amount produced by the BOCC.

The trial court ruled in the Appraiser's favor,¹² and the BOCC appealed the decision to the Fourth District Court of Appeal. The appellate court also ruled in the Appraiser's favor, deciding that, although each party has the opportunity to file an appeal with the Administration Commission, the DOR's approved budget is final and the Appraiser has an immediate right to be funded so as to discharge its constitutional duties.¹³ The appellate court reasoned that under s. 195.087's budget review system, the board of county commissioners assumes the role of advocate rather than decision-maker.¹⁴ Further, the appellate court reasoned that the discretionary nature of the Administration Commission's review demonstrates the legislative intent that DOR's budget determination is final:

...had the Legislature intended the DOR's final budgetary determination to receive an automatic stay pending appeal to the Administration Commission, it would have provided such remedy, as it has done in similar situations, or at the very least set a timeline for the Administration Commission's action.¹⁵

The BOCC also claimed that the deadline to file an appeal with the Administration Commission within 15 days after the s. 200.065 hearing evidences the Legislature's intent that county commissioners be permitted to set an interim budget pending appeal. However, the appellate court disagreed with the BOCC because the broad, general conferment of power in s. 200.065 does not contravene s. 192.091's specific requirement that the board honor the DOR's decision. Further, the deadline is a procedural convenience to allow the Administration Commission the opportunity to analyze the county's final budget prior to an appeal in order to understand the impact of the property appraiser budget on the county's total budget.

The BOCC asked the appellate court to certify the case to the Florida Supreme Court, but the appellate court denied the BOCC's request on February 3, 2015.¹⁶ The BOCC may seek review by the Florida Supreme Court; however, review is discretionary not mandatory.

Effect of Proposed Changes

The bill provides that boards of county commissioners must fund property appraisers according to the amount determined by the Department of Revenue in its final budget determination, and must fund the department-approved budget during the pendency of an ongoing appeal to the Administration Commission.

This statutory change would codify the result reached by the Fourth District Court of Appeal.

B. SECTION DIRECTORY:

Section 1. Amends s. 195.087, F.S., to state that the property appraiser's budget is final and shall be funded by the board of county commissioners once the DOR has made its final budget determination. The obligation to fund the property appraiser's office at the level set by the DOR is not affected by the filing of an appeal to the Administration Commission.

Section 2. Provides an effective date of July 1, 2015.

¹² *Parrish v. Board of County Commissioners Broward County Florida*, No. 13-23090 (08), 17th Cir. Ct. (December 31, 2013).

¹³ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101, 4th DCA (December 10, 2014).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Board of County Commissioners Broward County Florida v. Parrish*, No. 4D14-101, Order (February 3, 2015).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The final budget of property appraisers should not be affected by the bill. However, the bill may affect the timing of a county's recognition and implementation of the final budget.

According to the Department of Revenue, the department will not be required to make additional expenditures upon this bill becoming law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Under current law, a board of county commissioners will transfer budgeted funds in quarterly installments. In an appeal to the Administration Commission, if a board of county commissioners is

successful in appealing the DOR's final budget, the amount in question (difference between the DOR budget and county's budget) would be withheld from the next quarterly payment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to property appraisers; amending s.
 3 195.087, F.S.; specifying that a property appraiser's
 4 operating budget is final and shall be funded by the
 5 county commission once the Department of Revenue makes
 6 its final budget amendments; specifying that the
 7 county commission remains obligated to fund the
 8 department's final property appraiser's operating
 9 budget during the pendency of an appeal to the
 10 Administration Commission; providing an effective
 11 date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Subsection (1) of section 195.087, Florida
 16 Statutes, is amended to read:

17 195.087 Property appraisers and tax collectors to submit
 18 budgets to Department of Revenue.—

19 (1)(a) On or before June 1 of each year, every property
 20 appraiser, regardless of the form of county government, shall
 21 submit to the Department of Revenue a budget for the operation
 22 of the property appraiser's office for the ensuing fiscal year
 23 beginning October 1. The property appraiser shall submit his or
 24 her budget in the manner and form required by the department. A
 25 copy of such budget shall be furnished at the same time to the
 26 board of county commissioners. The department shall, upon proper

27 | notice to the county commission and property appraiser, review
28 | the budget request and may amend or change the budget request as
29 | it deems necessary, in order that the budget be neither
30 | inadequate nor excessive. On or before July 15, the department
31 | shall notify the property appraiser and the board of county
32 | commissioners of its tentative budget amendments and changes.
33 | ~~Before~~ Prior to August 15, the property appraiser and the board
34 | of county commissioners may submit additional information or
35 | testimony to the department respecting the budget. On or before
36 | August 15, the department shall make its final budget amendments
37 | or changes to the budget and shall provide notice thereof to the
38 | property appraiser and board of county commissioners. Once the
39 | department makes its final budget amendments, the budget is
40 | final and shall be funded by the county commission pursuant to
41 | s. 192.091.

42 | (b) The Governor and Cabinet, sitting as the
43 | Administration Commission, may hear appeals from the final
44 | action of the department upon a written request being filed by
45 | the property appraiser or the presiding officer of the county
46 | commission no later than 15 days after the conclusion of the
47 | hearing held pursuant to s. 200.065(2)(d). The filing of an
48 | appeal does not relieve the county commission of its obligation
49 | to fund the department-approved final budget during the pendency
50 | of the appeal. The Administration Commission may amend the
51 | budget if it finds that any aspect of the budget is unreasonable
52 | in light of the workload of the office of the property appraiser

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53 | in the county under review. The budget request as approved by
54 | the department and as amended by the commission shall become the
55 | operating budget of the property appraiser for the ensuing
56 | fiscal year beginning October 1, except that the budget so
57 | approved may subsequently be amended under the same procedure.
58 | After final approval, the property appraiser shall make no
59 | transfer of funds between accounts without the written approval
60 | of the department. However, all moneys received by property
61 | appraisers in complying with chapter 119 shall be accounted for
62 | in the same manner as provided for in s. 218.36, for moneys
63 | received as county fees and commissions, and any such moneys may
64 | be used and expended in the same manner and to the same extent
65 | as funds budgeted for the office and no budget amendment shall
66 | be required.

67 | Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 361 Military Housing Ad Valorem Tax Exemptions
SPONSOR(S): Trumbull
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan <i>RD</i>	Langston <i>SL</i>
2) Veteran & Military Affairs Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Current law provides an exemption from ad valorem taxation for property owned by the United States. This exemption specifically applies to leasehold interests in property owned by the United States government when the lessee serves or performs a governmental, municipal or public purpose or function.

The bill recognizes in statute that leaseholds and improvements constructed and used to provide housing pursuant to the federal Military Housing Privatization Initiative (Housing Initiative) on land owned by the federal government are exempt from ad valorem taxation.

The bill provides a definition of property of the United States that includes any leasehold interest of, and improvements affixed to, land owned by the United States acquired or constructed and used pursuant to the Housing Initiative. The bill provides that the term "improvements" includes actual housing units and any facilities that are directly related to such units, regardless of whether title is held by the United States. The bill also provides that it is not necessary for an application for an exemption to be filed or approved by the property appraiser.

The bill does not apply to transient public lodging establishments (hotels).

On February 2, 2015, the Revenue Estimating Conference estimated the bill will have a local government revenue impact of either zero or negative, indeterminate fiscal impact on local government collections of ad valorem revenues.

The bill applies retroactively to January 1, 2007.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background- Military Housing Privatization Initiative

During the 1990s, the Department of Defense (DoD) designated nearly two-thirds (approximately 180,000 houses) of its domestic family housing inventory as inadequate, needing repair or complete replacement.¹ Many of the housing units were constructed during World War II or soon after, and were designed only to last a few years. In addition, many older units had environmental problems such as lead-based paint, asbestos, and could not meet current building codes.² To remedy the problem, the DoD estimated it would cost approximately \$20 billion and take up to 40 years using the traditional military construction (MILCON) approach. In response, the DoD began seeking a cheaper and faster solution.³

In 1996, Congress enacted⁴ the Military Housing Privatization Initiative (Housing Initiative) to provide the DoD with authority to allow private-sector financing and expertise in order to improve the military housing situation.⁵ Such authority includes:⁶

- guarantees, both loan and rental;
- conveyance or leasing of existing property and facilities;
- differential lease payments;
- investments, both limited partnerships and stock or bond ownership; and/or
- direct loans.

In a typical privatized military housing project, a military department (Army, Navy, or Air Force) enters into an agreement with a private developer selected in a competitive process to own, maintain and operate military family housing. Jointly, the military department and private developer create a public-private venture (PPV). The military department then leases land (improved, unimproved or both) to the PPV for a term of 50 years while retaining both a present and future interest in the land and any improvements. As part of the terms of the lease agreement, the private developer is subsequently responsible for constructing new housing units or renovating existing housing units and leasing this housing, giving preference to service members and their families. The land and title to the housing units conveyed to the PPV, as well as any improvements made by the PPV, during the duration of the lease automatically revert to the military department upon expiration or termination of the ground lease.⁷ The Housing Initiative provides flexibility in the structure and terms of the transactions with the private sector. Unlike traditional MILCON projects, these projects are controlled by a private developer acting through the PPV rather than through unilateral government control.^{8,9}

¹ GAO-09-352, *Military Housing Privatization*, at page 1, available at: <http://www.gao.gov/assets/290/289739.pdf>.

² Phillip Morrison, *State Property Tax Implications for Military Privatized Family Housing Program*, Vol. 56, Air Force Law Review, page 263 (2005).

³ The Office of the Deputy Under Secretary of Defense Installations and Environment, *Military Privatization Initiative, Overview*, available at: <http://www.acq.osd.mil/housing/overview.htm> (last visited February 3, 2015). According to this site, the DoD currently owns 257,000 family housing units on- and off-base. About 60 percent need to be renovated or replaced because they have not been sufficiently maintained or modernized over the last 30 years.

⁴ National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 2801-2841 (1996).

⁵ 10 U.S.C. § 2871 et seq.

⁶ 10 U.S.C. §§ 2872-2878

⁷ GAO-09-352, at pages 10 and 11.

⁸ Phillip Morrison article, *supra* note 2, at page 266.

⁹ The Office of the Deputy Under Secretary of Defense (DUSD) Installations and Environment, *Housing Projects, Projects Awarded as of February 2012*, available at: <http://www.acq.osd.mil/housing/projawarded.htm> (last visited February 9, 2015).

There are currently Housing Initiative developments at the following military installations in Florida:¹⁰

- Tyndall Air Force Base
- MacDill Air Force Base
- Patrick Air Force Base
- Naval Air Station Jacksonville
- Naval Air Station Key West
- Naval Air Station Pensacola
- Naval Air Station Whiting Field
- Naval Station Mayport
- Naval Support Activity Panama City

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.¹² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,¹³ and it provides for specified assessment limitations, property classifications and exemptions.¹⁴ After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.¹⁵ Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.¹⁶ The Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to just value.¹⁷ However, the Florida Constitution provides for property tax relief in the form of certain valuation differentials, assessment limitations, and exemptions.¹⁸

Taxation of United States Property

Generally, the federal government and property owned by the federal government are immune from state and local taxation.¹⁹ The federal government's immunity from taxation required by state law extends to its agents and its instrumentalities.²⁰ Congress has the exclusive authority to determine whether and to what extent its instrumentalities are immune from state and local taxes.²¹

¹⁰ DUSD, Installations and Environment, Housing Projects, Projects Awarded, Florida, available at: http://www.acq.osd.mil/housing/state_fl.htm (last visited February 9, 2015).

¹¹ Fla. Const. art. VII, s. 1(a).

¹² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

¹³ Fla. Const., art. VII, s. 4.

¹⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

¹⁵ s. 196.031, F.S.

¹⁶ Fla. Const. art. VII, ss. 3 and 6.

¹⁷ Fla. Const. art. VII, ss. 3, 4, and 6.

¹⁸ Valuation differentials, assessment limitations, and exemptions are authorized in article VII of the Florida Constitution.

¹⁹ *McCullough v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819); *United States v. New Mexico*, 455 U.S. 720 (1982).

²⁰ *Kern-Limerick, Inc. v. Scurlock*, 347 U.S. 110 (1954); *Rohr Corp. v. San Diego County*, 362 U.S. 628 (1960).

²¹ *Maricopa County v. Valley Bank*, 318 U.S. 357 (1943).

Statutory Exemption for United States Property

Current law recognizes the immunity that property of the United States enjoys, and the ability of Congress to waive that immunity in specified circumstances: "All property of the United States shall be exempt from ad valorem taxation except such property as is subject to tax . . . under any law of the United States."²² Thus, federally-owned property may be subject to taxation if specifically allowed by federal law; however, Housing Initiative property does not allow such taxation.²³

Current law also provides an exemption from ad valorem and intangible taxation for leasehold interests in property owned by the United States when the lessee is performing a "governmental, municipal, or public purpose or function" as defined in s. 196.012(6), F.S.²⁴ Under s. 196.012(6), F.S., such a purpose is deemed served when "the lessee . . . is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or . . . would otherwise be a valid subject for the allocation of public funds." This section of statute does not specifically describe leaseholds and improvements constructed pursuant to the Housing Initiative as being eligible for this exemption from ad valorem taxation.

Current Litigation

Until recently, no attempt had been made to subject the Housing Initiatives projects in Florida to ad valorem tax. In 2012, the Monroe County property appraiser reversed a position he had held for several years and asserted that the Housing Initiative project improvements at Naval Air Station Key West were subject to tax retroactive to 2008 because the owner of the improvements was not exempt.²⁵ However, a circuit court judge in the Sixteenth Judicial Circuit determined that such improvements are exempt from property tax because the use and ownership of the improvements are consistent with the property tax exemptions provided in s. 196.199.²⁶ The court found that the operation, construction and renovation of military housing is a governmental function,²⁷ and, even though the nongovernmental lessee technically held legal title to the property, the United States Navy was the equitable owner of the property.²⁸ The Monroe County property appraiser appealed the decision to the Third District Court of Appeals,²⁹ but the opinion has not been released at the time of this analysis.

In 2014, a similar lawsuit was filed in Escambia County after the county property appraiser denied the ad valorem tax exemption for a Housing Initiative lessee in 2013.³⁰ In Escambia County, the original exemption was granted in 2008 based on the percentage of rented units occupied by active duty personnel, as determined by "rent rolls" provided annually by the Housing Initiative lessee.³¹ The property appraiser granted the ad valorem exemption in 2008 through 2012, but removed and denied the exemption in 2013. The property appraiser notified the Housing Initiative lessee of the removal and denial through a letter sent on July 1, 2013, which stated that "Florida law . . . provides that property owned by a non-governmental entity or lessee . . . shall be subject to ad valorem taxation."³² The Housing Initiative lessee filed a lawsuit on July 23, 2014, arguing that the property appraiser's removal and denial of the exemption is contrary to both state and federal law and is without legal basis or authorization.

²² s. 196.199(1)(a), F.S.

²³ 10 U.S.C. § 2878(e)(1).

²⁴ s. 196.199(2)(a), F.S.

²⁵ *Southeast Housing LLC v. Borglum*, No. 2012-CA-000831-K (Fla. 16th Cir. Ct., August 2012).

²⁶ *Southeast Housing LLC v. Borglum*, No. 2012-CA-000831-K, (Fla. 16th Cir. Ct., March 2014).

²⁷ *Id.* at page 9.

²⁸ *Id.* at page 11.

²⁹ *Russell v. Southeast Housing LLC*, No. 3D14-746 (3d DCA, May 2014).

³⁰ *Southeast Housing LLC v. Jones*, No. 2014-CA-000293 (Fla. 1st Cir. Ct., February 2014).

³¹ *Southeast Housing LLC v. Jones*, No. 2014-CA-000293, Plaintiff's Complaint at paragraph 41, July 23, 2014.

³² *Id.* at paragraphs 50 and 51.

Also in 2014, a similar lawsuit was filed in Santa Rosa County after the county property appraiser terminated a PILOT Agreement (Payment In Lieu of Taxes Agreement) entered into with a Housing Initiative lessee. After an initial denial of the ad valorem exemption in 2008, the property appraiser and the lessee executed the PILOT agreement on January 21, 2009. The agreement provided payment from the Housing Initiative lessee to various local governments in the county in exchange for the Housing Initiative project's classification as exempt from ad valorem taxation. The payment represented the ad valorem taxes, recalculated annually, that would have been due from the civilian occupied military housing units (but not the land, which remains exempt under federal ownership). Further, the agreement provided the parties agreed that the military housing units occupied by active duty or retired military personnel and their families were exempt from ad valorem taxation. On November 27, 2013, the property appraiser sent the Housing Initiative lessee a letter providing notification that the PILOT agreement would be terminated effective December 31, 2013. The Housing Initiative lessee filed a lawsuit on December 17, 2014, arguing that the property appraiser's removal and denial of the exemption is contrary to both state and federal law and is without legal basis or authorization.

Effect of Proposed Changes

The bill recognizes in statute that leaseholds and improvements constructed and used to provide housing pursuant to the federal Military Housing Initiative on land owned by the federal government are exempt from ad valorem taxation.

The bill provides a definition of property of the United States that includes any leasehold interest of, and improvements affixed to, land owned by the United States acquired or constructed and used pursuant to the Housing Initiative. The bill provides that the term "improvements" includes actual housing units and any facilities that are directly related to such units. The bill also provides that it is not necessary for an application for an exemption to be filed or approved by the property appraiser.

The bill does not apply to transient public lodging establishments (hotels).

B. SECTION DIRECTORY:

Section 1. Amends s. 196.199, F.S., relating to government property exemption.

Section 2. Provides retroactive applicability to January 1, 2007.

Section 3. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates the bill could have zero or a negative, indeterminate impact on local government collections of ad valorem revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Clarifying ad valorem tax exemption eligibility standards for United States property may ensure that military housing developed pursuant to the Housing Initiative will not be subjected to taxation.

D. FISCAL COMMENTS:

The negative, indeterminate fiscal impact possibility is a result of the uncertainty regarding the current administration of the tax. The various property appraiser offices of the state and the DOR play a role in the administration of the tax.

Three out of seven county property appraisers with Housing Initiative projects in their respective counties currently have litigation pending regarding the removal and denial of ad valorem exemptions on the Housing Initiative properties. The remaining four are treating the properties as exempt.

In response to the lawsuit filed against the Monroe County Property Appraiser, the Florida Department of Revenue filed an answer with the Court in which it concurred with the Housing Initiative lessee that the improvements at Naval Air Station Key West were exempt ad valorem taxation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18 of the Florida Constitution may apply because, if the courts determine that ad valorem taxation is appropriate on improvements to Housing Initiative property, this bill may reduce the authority of local governments to raise total aggregate revenues by exempting such property from ad valorem taxation. However, the bill may be exempt under article VII, section 18(d) of the Florida Constitution because it may have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to military housing ad valorem tax
 3 exemptions; amending s. 196.199, F.S.; providing that
 4 certain leasehold interests and improvements to land
 5 owned by the United States, a branch of the United
 6 States Armed Forces, or any agency or quasi-
 7 governmental agency of the United States are exempt
 8 from ad valorem taxation under specified
 9 circumstances; providing that such leasehold interests
 10 and improvements are entitled to an exemption from ad
 11 valorem taxation without an application being filed
 12 for the exemption or the property appraiser approving
 13 the exemption; providing nonapplicability of
 14 provisions to transient public lodging establishments;
 15 providing retroactive applicability; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (a) of subsection (1) of section
 21 196.199, Florida Statutes, is amended, and subsection (11) is
 22 added to that section, to read:

23 196.199 Government property exemption.—

24 (1) Property owned and used by the following governmental
 25 units shall be exempt from taxation under the following
 26 conditions:

27 (a)1. All property of the United States ~~is shall be~~ exempt
28 from ad valorem taxation, except such property as is subject to
29 tax by this state or any political subdivision thereof or any
30 municipality under any law of the United States.

31 2. Notwithstanding any other provision of law, for
32 purposes of the exemption from ad valorem taxation provided in
33 subparagraph 1., property of the United States includes any
34 leasehold interest of and improvements affixed to land owned by
35 the United States, any branch of the United States Armed Forces,
36 or any agency or quasi-governmental agency of the United States
37 if the leasehold interest and improvements are acquired or
38 constructed and used pursuant to the federal Military Housing
39 Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As
40 used in this subparagraph, the term "improvements" includes
41 actual housing units and any facilities that are directly
42 related to such housing units, including any housing maintenance
43 facilities, housing rental and management offices, parks and
44 community centers, and recreational facilities. Any leasehold
45 interest and improvements described in this subparagraph,
46 regardless of whether title is held by the United States, shall
47 be construed as being owned by the United States, the applicable
48 branch of the United States Armed Forces, or the applicable
49 agency or quasi-governmental agency of the United States and are
50 exempt from ad valorem taxation without the necessity of an
51 application for exemption being filed or approved by the
52 property appraiser. This subparagraph does not apply to a

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53 transient public lodging establishment as defined in s. 509.013.

54 Section 2. This act applies retroactively to January 1,
55 2007.

56 Section 3. This act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 361 (2015)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Trumbull offered the following:

3

4 Amendment (with directory amendment)

5

6

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

7

Remove lines 21-22 and insert:

8

196.199, Florida Statutes, is amended to read:

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 489 Value Adjustment Board Proceedings
SPONSOR(S): Sullivan
TIED BILLS: IDEN./SIM. **BILLS:** SB 260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan RD	Langston RS
2) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Current law provides for administrative and judicial review of ad valorem tax assessments. As part of that process, each county in Florida has a value adjustment board (VAB) composed of five members that hears petitions pertaining to property assessments made by the county property appraiser. The VAB hears evidence from both the petitioner and property appraiser as to whether a property is appraised at its just value, as well as issues related to tax exemptions, deferments, and portability.

The bill makes the following revisions to the process for petitioning a value adjustment board (VAB):

- Requires the clerk of the VAB to have available and distribute petition forms (a function already performed by the property appraiser).
- Allows an owner of multiple, similar items of tangible personal property to file a single, joint petition protesting the assessment of such property.
- Provides that during the evidence exchange process the property appraiser must include the property record card regardless of whether the card was provided by the clerk.

The Revenue Estimating Conference has not conducted an analysis of the impacts of the bill at the time of this analysis. Based on analysis of substantially identical legislation from 2014, the bill is expected to have a negative impact of approximately \$100,000 on VAB fee revenues. The bill may also result in minimal additional expenditures by VAB clerks and property appraisers.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of ad valorem tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members¹ that hears petitions pertaining to property assessments made by the county property appraiser.² The VAB hears evidence from both the petitioner and property appraiser as to whether a property is appraised at its fair market value, as well as issues related to tax exemptions, deferments, and portability.³

Petition Process for VAB Hearing

A property appraiser establishes the value of taxable property as of January 1 each year, and reviews and applies exemptions, assessment limitations, and classifications that may reduce a property's taxable value.⁴ The VAB has no authority to review, by its own motion, the determinations of the property appraiser.⁵ Rather, the property owner may initiate a review by filing a petition with the clerk,⁶ which can cost up to \$15 per petition.⁷

The Florida Department of Revenue (DOR), in their property tax oversight role, maintains a calendar indicating when the petition process begins (early March), and when petitions must be received by (mid-September), each year.⁸ The clerk of the VAB⁹ is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the value adjustment board. VAB petitions may be found at the DOR website, the County Property Appraiser's office, and in most counties at the office or website of the VAB Clerk; however, currently only the property appraiser is required to have petitions available.

Joint petitions

An owner of contiguous, undeveloped parcels of real property may file a single joint petition if the property appraiser determines such parcels are substantially similar in nature.¹⁰ Also, a condominium, cooperative, or homeowners' association may file a single joint petition on behalf of any association member who owns parcels of real property that the "property appraiser determines are substantially similar with respect to

¹ s. 194.015, F.S.

² s. 194.011, F.S. The VAB also hears complaints about homestead exemptions and appeals exemption, deferral, or classification decisions. s. 194.032(1)(a), F.S.

³ Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions. s. 194.035(1), F.S.

⁴ For timeframes and instructions on filing, see Dep't of Revenue, Petitions to the Value Adjustment Board, available at: <http://dor.myflorida.com/dor/property/brochures/pt101.pdf> (last viewed February 4, 2015).

⁵ See Chapter 2013-95, ss. 1-4, Laws of Fla. (CS/HB 1193).

⁶ s. 194.011, F.S.

⁷ s. 194.013, F.S.

⁸ See the most recent calendar for exact dates. Dep't of Revenue, Value Adjustment Board Calendar, available at: <http://dor.myflorida.com/dor/property/officials/pdf/pt902020.pdf> (last visited February 5, 2015).

⁹ The county clerk usually serves as the clerk of the value adjustment board. s. 194.015, F.S.

¹⁰ s. 194.011(3)(f), F.S.; rule 12D-9.015(8), F.A.C.

location, proximity to amenities, number of rooms, living area, and condition.”¹¹ A single filing fee for a joint petition is to be charged, which cannot exceed \$5 per parcel and must be proportionately paid among the parcel owners.¹²

Record cards

Property appraisers maintain records of assessment information for assessed properties. A property’s record of information may be referred to as the “property record card.” On a petition to the VAB, a petitioner may elect to receive a copy of the property record card.¹³ Prior to 2013, the clerk of the VAB was required to provide a copy of the card when the petitioner made the election on the petition.¹⁴ In 2013, the Legislature shifted this responsibility from the clerk of the VAB to the property appraiser; however, the legislation did not conform s. 194.011(4)(b), F.S., to recognize this change.

Effect of Proposed Changes

The bill makes the following revisions to the process for petitioning a value adjustment board (VAB):

- Requires the clerk of the VAB to have available and distribute petition forms (a function already performed by the property appraiser).
- Allows an owner of multiple, similar items of tangible personal property to file a single, joint petition protesting the assessment of such property.
- Provides that during the evidence exchange process the property appraiser must include a property record card regardless of whether the card was provided by the clerk.

B. SECTION DIRECTORY:

Section 1. Amends ss. 194.011(3)(a), (f), and (4)(b), F.S., to require the clerk of the VAB to have available and distribute petition forms; allow an owner of multiple, similar items of tangible personal property to file a single, joint petition protesting the assessment of such property; and provide that, during the evidence exchange process, the property appraiser must include the property record card regardless of whether the card was provided by the clerk.

Section 2. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹¹ s. 194.011(3)(e), F.S.; rule 12D-9.015(8), F.A.C.

¹² s. 194.013(1), F.S.

¹³ s. 194.032(2)(a), F.S.

¹⁴ Ch. 2013-109, sec. 8, Laws of Fla.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

In 2014, the original draft of HB 651 (substantively identical to this bill) was reviewed by the Revenue Estimating Conference on February 12, 2014, and it estimated that there would be a \$100,000 negative, recurring fiscal impact to value adjustment board fees.

2. Expenditures:

The clerk of a VAB may need to expend funds to have available and distribute petition forms. A property appraiser may need to expend funds to provide property record cards.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a cost-savings for owners of multiple pieces of similar tangible personal property that choose to contest their assessment because they can file a single joint petition rather than multiple petitions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18 of the Florida Constitution may apply because this bill may require additional expenditures by property appraisers and VAB clerks, which are partially funded by county government. However, the bill may be exempt under article VII, section 18(d) of the Florida Constitution because it is expected to have an insignificant impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department may need to revise rule 12D-9.015, F.A.C., relating to the filing of petitions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to value adjustment board proceedings; amending s. 194.011, F.S.; requiring the clerk of the value adjustment board to have available and distribute specified forms; authorizing the owner of multiple items of tangible personal property to file a joint petition with the value adjustment board under certain circumstances; requiring the property appraiser to include the property record card in an evidence list for a value adjustment board hearing under certain circumstances; providing an effective date.

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

Section 1. Paragraphs (a) and (f) of subsection (3) and paragraph (b) of subsection (4) of section 194.011, Florida Statutes, are amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department.

Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

27 (a) The clerk of the value adjustment board and the
 28 property appraiser shall have available and shall distribute
 29 forms prescribed by the Department of Revenue on which the
 30 petition shall be made. Such petition shall be sworn to by the
 31 petitioner.

32 (f) An owner of contiguous, undeveloped parcels, or an
 33 owner of multiple items of tangible personal property, may file
 34 with the value adjustment board a single joint petition if the
 35 property appraiser determines such parcels or items of tangible
 36 personal property to be ~~are~~ substantially similar in nature.

37 (4)

38 (b) No later than 7 days before the hearing, if the
 39 petitioner has provided the information required under paragraph
 40 (a), and if requested in writing by the petitioner, the property
 41 appraiser shall provide to the petitioner a list of evidence to
 42 be presented at the hearing, together with copies of all
 43 documentation to be considered by the value adjustment board and
 44 a summary of evidence to be presented by witnesses. The evidence
 45 list must contain the property appraiser's property record card
 46 ~~if provided by the clerk.~~ Failure of the property appraiser to
 47 timely comply with the requirements of this paragraph shall
 48 result in a rescheduling of the hearing.

49 Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4007 Division of Bond Finance
SPONSOR(S): Gaetz
TIED BILLS: IDEN./SIM. BILLS: SB 522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Moore	Williamson
2) Finance & Tax Committee		Pewitt <i>JP</i>	Langston <i>RS</i>
3) State Affairs Committee			

SUMMARY ANALYSIS

The Division of Bond Finance (Division) is administratively housed within the State Board of Administration and is responsible for issuing any state bonds authorized by law or the Florida Constitution as well as bonds on behalf of any state agency authorized by law. As part of its duties, the Division is required to issue a regular newsletter to issuers, underwriters, attorneys, investors, and other parties within the bond community and the general public containing information of interest relating to state and local general obligation and revenue bonds.

The Division has not published an issue of the newsletter since the fall of 2000 because there have been no subscribers.

The bill deletes the requirement for the Division to issue the newsletter.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Bond Finance (Division) was created in the State Bond Act¹ (Act) in 1969 and is administratively housed within the State Board of Administration.² The Governor serves as chair of the governing board of the Division, the Attorney General is the secretary, and the Chief Financial Officer serves as treasurer.³

The Division is responsible for issuing any state bonds authorized by law or the Florida Constitution as well as bonds on behalf of any state agency authorized by law.⁴ As it is used in the Act, a state agency is defined as "any board, commission, authority, or other state agency heretofore or hereafter created by the constitution or statutes of the state."⁵ In carrying out its authority, the Division is authorized to exercise all of the powers relating to bonds to the same extent as state agencies.⁶

As part of its duties, the Division serves as a clearinghouse of information relating to both general obligation bonds and revenue bonds of the state and local governments.⁷ The Division is required to collect, maintain, and make available information concerning such bonds.⁸ The Division also is required to issue a regular newsletter to issuers, underwriters, attorneys, investors, and other parties within the bond community and the general public containing information of interest relating to these bonds.⁹ The Division is authorized to charge fees for subscriptions to the newsletter.¹⁰

The Division's newsletter does not have any subscribers.¹¹ As a result, the Division has not published an issue of the newsletter since the fall of 2000.¹² The Division has never charged a fee for the newsletter.¹³

Effect of Proposed Changes

The bill deletes the requirement for the Division to issue a regular newsletter to issuers, underwriters, attorneys, investors, and other parties within the bond community and the general public containing information of interest relating to local and state bonds.

B. SECTION DIRECTORY:

Section 1. amends s. 218.37, F.S., repealing the requirement that the Division issue a regular newsletter addressing local and state bonds.

Section 2. provides an effective date of July 1, 2015.

¹ The State Bond Act encompasses ss. 215.57-215.83, F.S.

² Section 215.62(1), F.S.

³ *Id.*

⁴ Section 215.64(2), F.S.

⁵ Section 215.58(6), F.S.

⁶ Section 215.64(3), F.S.

⁷ Section 218.37, F.S.

⁸ Section 218.37(1)(a)-(c), F.S.

⁹ Section 218.37(1)(f), F.S.

¹⁰ *Id.*

¹¹ According to a phone conversation with Division staff on January 14, 2015.

¹² According to email correspondence with Division staff on January 22, 2015. A copy of the email is on file with Government Operations Subcommittee staff.

¹³ According to a phone conversation with Division staff on January 14, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Repeal of the newsletter requirement was recommended in the Auditor General's Annual Report for the period of November 1, 2013, through October 31, 2014.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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2015

1 A bill to be entitled
 2 An act relating to the Division of Bond Finance;
 3 amending s. 218.37, F.S.; deleting requirement that
 4 the division issue a regular newsletter addressing
 5 local and state bonds; providing an effective date.
 6

7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Paragraph (f) of subsection (1) of section
 10 218.37, Florida Statutes, is amended to read:

11 218.37 Powers and duties of Division of Bond Finance;
 12 advisory council.—

13 (1) The Division of Bond Finance of the State Board of
 14 Administration, with respect to both general obligation bonds
 15 and revenue bonds, shall:

16 ~~(f) Issue a regular newsletter to issuers, underwriters,~~
 17 ~~attorneys, investors, and other parties within the bond~~
 18 ~~community and the general public containing information of~~
 19 ~~interest relating to local and state bonds. The division may~~
 20 ~~charge fees for subscriptions to the newsletter.~~

21 Section 2. This act shall take effect July 1, 2015.

Ad Valorem Tax
"Save Our Homes"
Recapture

Summary of Draft Language Amending “Recapture Rule”

Present Situation

Just Value & Assessed Value

Section 4, Art. VII of the State Constitution requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, “just valuation” is synonymous with “fair market value,” and is defined as what a willing buyer would pay a willing seller for property in an arm’s length transaction.¹ The State Constitution authorizes certain alternatives to the just valuation standard for specific types of property,² including:

- Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational³
- Land used for conservation purposes⁴
- Livestock and tangible personal property that is held for sale as stock in trade⁵
- Historic properties⁶
- Property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older⁷
- Improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices⁸
- Certain working waterfront property⁹

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or the Florida Statutes.

Save Our Homes

The “Save Our Homes” provision in s. 4, Art. VII of the State Constitution limits the amount a homestead’s assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁰ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to that homestead.¹¹

¹ Section 193.011, F.S. *See, also, Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² The constitutional provisions in s. 4, Art. VII of the State Constitution, are implemented in Part II of ch. 193, F.S.

³ Section 4(a), Art. VII of the State Constitution.

⁴ Section 4(b), Art. VII of the State Constitution.

⁵ Section 4(c), Art. VII of the State Constitution.

⁶ Section 4(e), Art. VII of the State Constitution.

⁷ Section 4(f), Art. VII of the State Constitution.

⁸ Section 4(i), Art. VII of the State Constitution.

⁹ Section 4(j), Art. VII of the State Constitution.

¹⁰ Section 4(d), Art. VII of the State Constitution.

¹¹ Section 4(d), Art. VII of the State Constitution.

Rule 12D-8.0062, Florida Administrative Code: "The Recapture Rule"

In October 1995, the Governor and the Cabinet, acting as the head of the Department of Revenue, adopted Rule 12D-8.0062, F.A.C., entitled "Assessments; Homestead; and Limitations."¹² The rule "govern[s] the determination of the assessed value of property subject to the homestead assessment limitation under Article VII, Section 4(c), Florida Constitution and Section 193.155, F.S."¹³

Subsection (5) of the rule is popularly known as the "recapture rule." This subsection requires property appraisers to increase the assessed value of a homestead property by the lower of three percent or the CPI on all property where the prior year's assessed value is lower than the just value.

Currently, this requirement applies even if the just value of the homestead property has decreased from the prior year. Therefore, homestead owners entitled to the "Save Our Homes" cap whose property is assessed at less than just value may see an increase in the assessed value of their home in years where the just/market value of their property has decreased.

Subsection (6) of the rule provides that if the change in the CPI is negative, then the assessed value must be equal to the prior year's assessed value decreased by that percentage.

Markham v. Department of Revenue¹⁴

On March 17, 1995, William Markham, the Broward County Property Appraiser, filed a petition challenging the validity of the Department of Revenue's proposed "recapture rule" within Rule 12D-8.0062, F.A.C. Markham alleged that the proposed rule was "an invalid exercise of delegated legislative authority and is arbitrary and capricious."¹⁵ Markham also claimed that subsection (5) of the rule was at variance with the constitution—specifically that it conflicted with the "intent" of the ballot initiative and that a third limitation relating to market value or movement¹⁶ should be incorporated into the language of the rule to make it compatible with the language in s. 4(c), Art. VII of the State Constitution.

A final order was issued by the Division of Administrative Hearings on June 21, 1995, which upheld the validity of Rule 12D-8.0062, F.A.C., and the Department of Revenue's exercise of delegated legislative authority. The hearing officer determined that subsections (5) and (6) of the administrative rule were consistent with s. 4(c), Art. VII of the State Constitution. The hearing officer also held that the challenged portions of the

¹²While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12S-9.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.927, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just and otherwise in compliance with the requirements of general law and the constitution.

¹³Rule 12D-8.0062(1), F.A.C.

¹⁴*Markham v. Department of Revenue*, Case No. 95-1339RP (Fla. DOAH 1995).

¹⁵*Id.*

¹⁶*Id.* at ¶ 21, stating that "[t]his limitation, grounded on "market movement," would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase."

rule were consistent with the agency's mandate to adopt rules under s. 195.027(1), F.S., since the rule had a factual and logical underpinning, was plain and unambiguous, and did not conflict with the implemented law.¹⁷

Effect of Proposed Changes

The joint resolution places a constitutional amendment on the ballot in November, 2016. If approved by the voters, the proposed amendment would amend s. 4, Art. VII, State Constitution, to prohibit increases in the assessed value of a homestead property and certain non-homestead property, in any year where the market value of the property decreases.¹⁸

If approved by the voters, these provisions will take effect on January 1, 2017.

Fiscal Impact

The Revenue Estimating Conference has not yet adopted an estimate of the fiscal impact of this proposed constitutional amendment. However, the recurring annual impact of similar legislation in 2011 was estimated at -\$17.7 million for school purposes and -\$32.5 million for non-school purposes.

¹⁷ *Id.* at ¶ 20.

¹⁸ The assessed value of such properties could still increase for unrelated reasons, such as an increase in just value due to improvements made to the homestead property. *See*, s. 4(d)(5), Art. VII of the State Constitution.

29 (c) Pursuant to general law tangible personal property
 30 held for sale as stock in trade and livestock may be valued for
 31 taxation at a specified percentage of its value, may be
 32 classified for tax purposes, or may be exempted from taxation.

33 (d) All persons entitled to a homestead exemption under
 34 Section 6 of this Article shall have their homestead assessed at
 35 just value as of January 1 of the year following the effective
 36 date of this amendment. This assessment shall change only as
 37 provided in this subsection.

38 (1) Assessments subject to this subsection shall be
 39 changed annually on January 1st of each year; but those changes
 40 in assessments shall not exceed the lower of the following:

41 a. Three percent (3%) of the assessment for the prior
 42 year.

43 b. The percent change in the Consumer Price Index for all
 44 urban consumers, U.S. City Average, all items 1967=100, or
 45 successor reports for the preceding calendar year as initially
 46 reported by the United States Department of Labor, Bureau of
 47 Labor Statistics.

48 (2) Except for changes, additions, reductions, or
 49 improvements to homestead property assessed as provided in
 50 paragraph (6), an assessment may not increase if the just value
 51 of the property is less than the just value of the property on
 52 the preceding January 1.

53 ~~(3)(2)~~ No assessment shall exceed just value.

54 ~~(4)(3)~~ After any change of ownership, as provided by
 55 general law, homestead property shall be assessed at just value
 56 as of January 1 of the following year, unless the provisions of

57 paragraph (9)~~(8)~~ apply. Thereafter, the homestead shall be
 58 assessed as provided in this subsection.

59 (5)~~(4)~~ New homestead property shall be assessed at just
 60 value as of January 1st of the year following the establishment
 61 of the homestead, unless the provisions of paragraph (9)~~(8)~~
 62 apply. That assessment shall only change as provided in this
 63 subsection.

64 (6)~~(5)~~ Changes, additions, reductions, or improvements to
 65 homestead property shall be assessed as provided for by general
 66 law; provided, however, after the adjustment for any change,
 67 addition, reduction, or improvement, the property shall be
 68 assessed as provided in this subsection.

69 (7)~~(6)~~ In the event of a termination of homestead status,
 70 the property shall be assessed as provided by general law.

71 (8)~~(7)~~ The provisions of this amendment are severable. If
 72 any of the provisions of this amendment shall be held
 73 unconstitutional by any court of competent jurisdiction, the
 74 decision of such court shall not affect or impair any remaining
 75 provisions of this amendment.

76 (9)~~(8)~~a. A person who establishes a new homestead as of
 77 January 1, 2009, or January 1 of any subsequent year and who has
 78 received a homestead exemption pursuant to Section 6 of this
 79 Article as of January 1 of either of the two years immediately
 80 preceding the establishment of the new homestead is entitled to
 81 have the new homestead assessed at less than just value. If this
 82 revision is approved in January of 2008, a person who
 83 establishes a new homestead as of January 1, 2008, is entitled
 84 to have the new homestead assessed at less than just value only

85 if that person received a homestead exemption on January 1,
 86 2007. The assessed value of the newly established homestead
 87 shall be determined as follows:

88 1. If the just value of the new homestead is greater than
 89 or equal to the just value of the prior homestead as of January
 90 1 of the year in which the prior homestead was abandoned, the
 91 assessed value of the new homestead shall be the just value of
 92 the new homestead minus an amount equal to the lesser of
 93 \$500,000 or the difference between the just value and the
 94 assessed value of the prior homestead as of January 1 of the
 95 year in which the prior homestead was abandoned. Thereafter, the
 96 homestead shall be assessed as provided in this subsection.

97 2. If the just value of the new homestead is less than the
 98 just value of the prior homestead as of January 1 of the year in
 99 which the prior homestead was abandoned, the assessed value of
 100 the new homestead shall be equal to the just value of the new
 101 homestead divided by the just value of the prior homestead and
 102 multiplied by the assessed value of the prior homestead.
 103 However, if the difference between the just value of the new
 104 homestead and the assessed value of the new homestead calculated
 105 pursuant to this sub-subparagraph is greater than \$500,000, the
 106 assessed value of the new homestead shall be increased so that
 107 the difference between the just value and the assessed value
 108 equals \$500,000. Thereafter, the homestead shall be assessed as
 109 provided in this subsection.

110 b. By general law and subject to conditions specified
 111 therein, the legislature shall provide for application of this
 112 paragraph to property owned by more than one person.

113 (e) The legislature may, by general law, for assessment
 114 purposes and subject to the provisions of this subsection, allow
 115 counties and municipalities to authorize by ordinance that
 116 historic property may be assessed solely on the basis of
 117 character or use. Such character or use assessment shall apply
 118 only to the jurisdiction adopting the ordinance. The
 119 requirements for eligible properties must be specified by
 120 general law.

121 (f) A county may, in the manner prescribed by general law,
 122 provide for a reduction in the assessed value of homestead
 123 property to the extent of any increase in the assessed value of
 124 that property which results from the construction or
 125 reconstruction of the property for the purpose of providing
 126 living quarters for one or more natural or adoptive grandparents
 127 or parents of the owner of the property or of the owner's spouse
 128 if at least one of the grandparents or parents for whom the
 129 living quarters are provided is 62 years of age or older. Such a
 130 reduction may not exceed the lesser of the following:

131 (1) The increase in assessed value resulting from
 132 construction or reconstruction of the property.

133 (2) Twenty percent of the total assessed value of the
 134 property as improved.

135 (g) For all levies other than school district levies,
 136 assessments of residential real property, as defined by general
 137 law, which contains nine units or fewer and which is not subject
 138 to the assessment limitations set forth in subsections (a)
 139 through (d) shall change only as provided in this subsection.

140 (1) Assessments subject to this subsection shall be

141 changed annually on the date of assessment provided by law; but
 142 those changes in assessments shall not exceed ten percent (10%)
 143 of the assessment for the prior year. Except for changes,
 144 additions, reductions, or improvements to property assessed as
 145 provided in paragraph (4), an assessment may not increase if the
 146 just value of the property is less than the just value of the
 147 property on the preceding date of assessment provided by law.

148 (2) No assessment shall exceed just value.

149 (3) After a change of ownership or control, as defined by
 150 general law, including any change of ownership of a legal entity
 151 that owns the property, such property shall be assessed at just
 152 value as of the next assessment date. Thereafter, such property
 153 shall be assessed as provided in this subsection.

154 (4) Changes, additions, reductions, or improvements to
 155 such property shall be assessed as provided for by general law;
 156 however, after the adjustment for any change, addition,
 157 reduction, or improvement, the property shall be assessed as
 158 provided in this subsection.

159 (h) For all levies other than school district levies,
 160 assessments of real property that is not subject to the
 161 assessment limitations set forth in subsections (a) through (d)
 162 and (g) shall change only as provided in this subsection.

163 (1) Assessments subject to this subsection shall be
 164 changed annually on the date of assessment provided by law; but
 165 those changes in assessments shall not exceed ten percent (10%)
 166 of the assessment for the prior year. Except for changes,
 167 additions, reductions, or improvements to property assessed as
 168 provided in paragraph (5), an assessment may not increase if the

169 just value of the property is less than the just value of the
 170 property on the preceding date of assessment provided by law.

171 (2) No assessment shall exceed just value.

172 (3) The legislature must provide that such property shall
 173 be assessed at just value as of the next assessment date after a
 174 qualifying improvement, as defined by general law, is made to
 175 such property. Thereafter, such property shall be assessed as
 176 provided in this subsection.

177 (4) The legislature may provide that such property shall
 178 be assessed at just value as of the next assessment date after a
 179 change of ownership or control, as defined by general law,
 180 including any change of ownership of the legal entity that owns
 181 the property. Thereafter, such property shall be assessed as
 182 provided in this subsection.

183 (5) Changes, additions, reductions, or improvements to
 184 such property shall be assessed as provided for by general law.†
 185 However, after the adjustment for any change, addition,
 186 reduction, or improvement, the property shall be assessed as
 187 provided in this subsection.

188 (i) The legislature, by general law and subject to
 189 conditions specified therein, may prohibit the consideration of
 190 the following in the determination of the assessed value of real
 191 property used for residential purposes:

192 (1) Any change or improvement made for the purpose of
 193 improving the property's resistance to wind damage.

194 (2) The installation of a renewable energy source device.

195 (j) (1) The assessment of the following working waterfront
 196 properties shall be based upon the current use of the property:

- 197 a. Land used predominantly for commercial fishing
 198 purposes.
- 199 b. Land that is accessible to the public and used for
 200 vessel launches into waters that are navigable.
- 201 c. Marinas and drystacks that are open to the public.
- 202 d. Water-dependent marine manufacturing facilities,
 203 commercial fishing facilities, and marine vessel construction
 204 and repair facilities and their support activities.
- 205 (2) The assessment benefit provided by this subsection is
 206 subject to conditions and limitations and reasonable definitions
 207 as specified by the legislature by general law.

208 ARTICLE XII

209 SCHEDULE

210 SECTION 32. Property assessments.—This section and the
 211 amendment of Section 4 of Article VII addressing homestead and
 212 specified nonhomestead property having a declining just value
 213 shall take effect January 1, 2017.

214 BE IT FURTHER RESOLVED that the following statement be
 215 placed on the ballot:

216 CONSTITUTIONAL AMENDMENT

217 ARTICLE VII, SECTION 4

218 ARTICLE XII, SECTION 32

219 PROPERTY TAX LIMITATIONS; PROPERTY VALUE DECLINE.—

220 (1) This would amend Florida Constitution Article VII,
 221 Section 4 (Taxation; assessments). It also would add Article
 222 XII, Section 32, relating to the Schedule for the amendments.

223 (2) In certain circumstances, the law requires the
 224 assessed value of homestead and specified nonhomestead property

225 | to increase when the just value of the property decreases.
226 | Therefore, this amendment provides that the assessment of
227 | homestead and specified nonhomestead property may not increase
228 | if the just value of that property is less than the just value
229 | of the property on the preceding January 1, subject to any
230 | adjustment in the assessed value due to changes, additions,
231 | reductions, or improvements to such property which are assessed
232 | as provided for by general law. This amendment takes effect upon
233 | approval by the voters, and shall take effect January 1, 2017.

Entertainment Industry
Tax Credit Program



Film and Entertainment Industry Financial Incentive Programs

A presentation to the House Finance and Tax
Committee

Alex Regalado, Senior Legislative Analyst

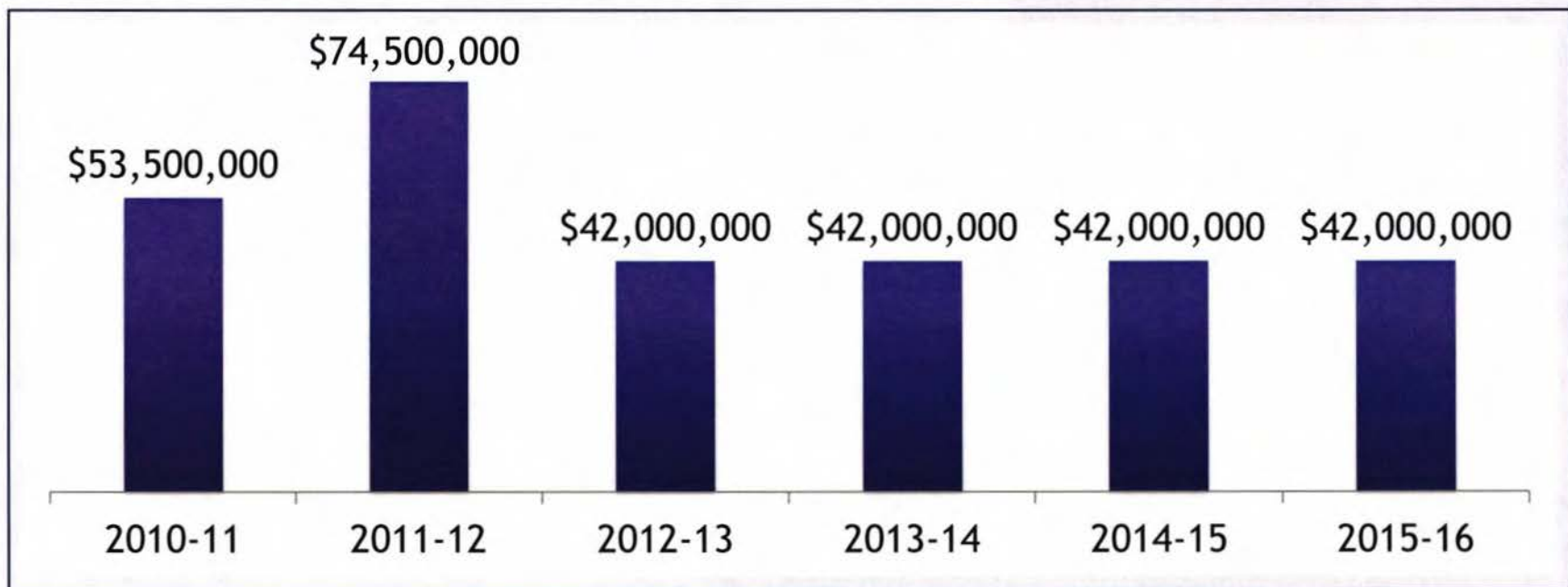
February 12, 2015

Film and Entertainment Incentive Programs

- ▶ **Entertainment Industry Financial Incentive Program** – Offers transferable tax credits for expenditures related to qualified productions
- ▶ **Entertainment Industry Sales Tax Exemption Program** – Provides sales tax exemptions for certain purchases by qualified production companies

Incentive Funding

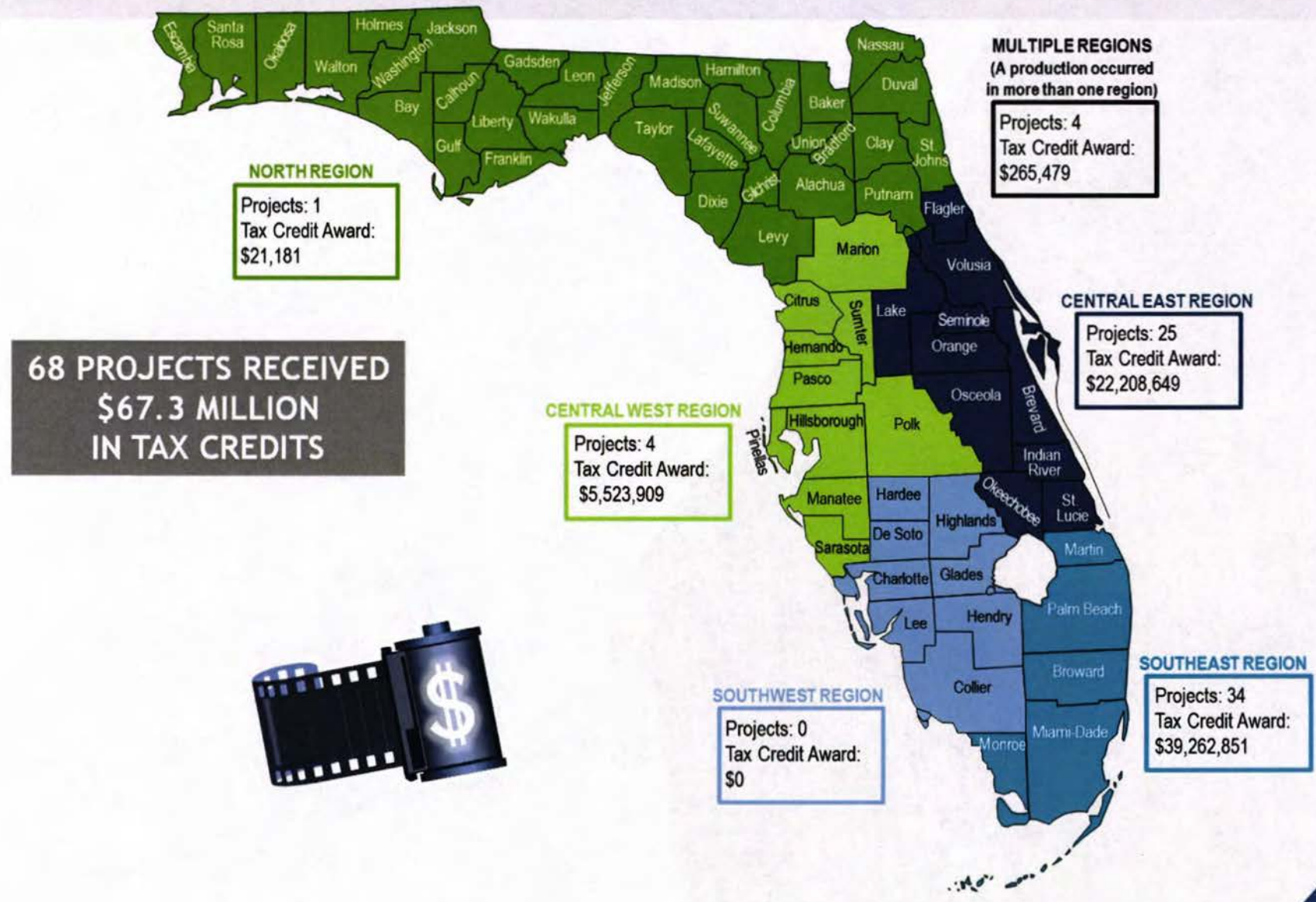
- ▶ The Legislature allocated \$296 Million in tax credits over six years; all tax credits have been certified



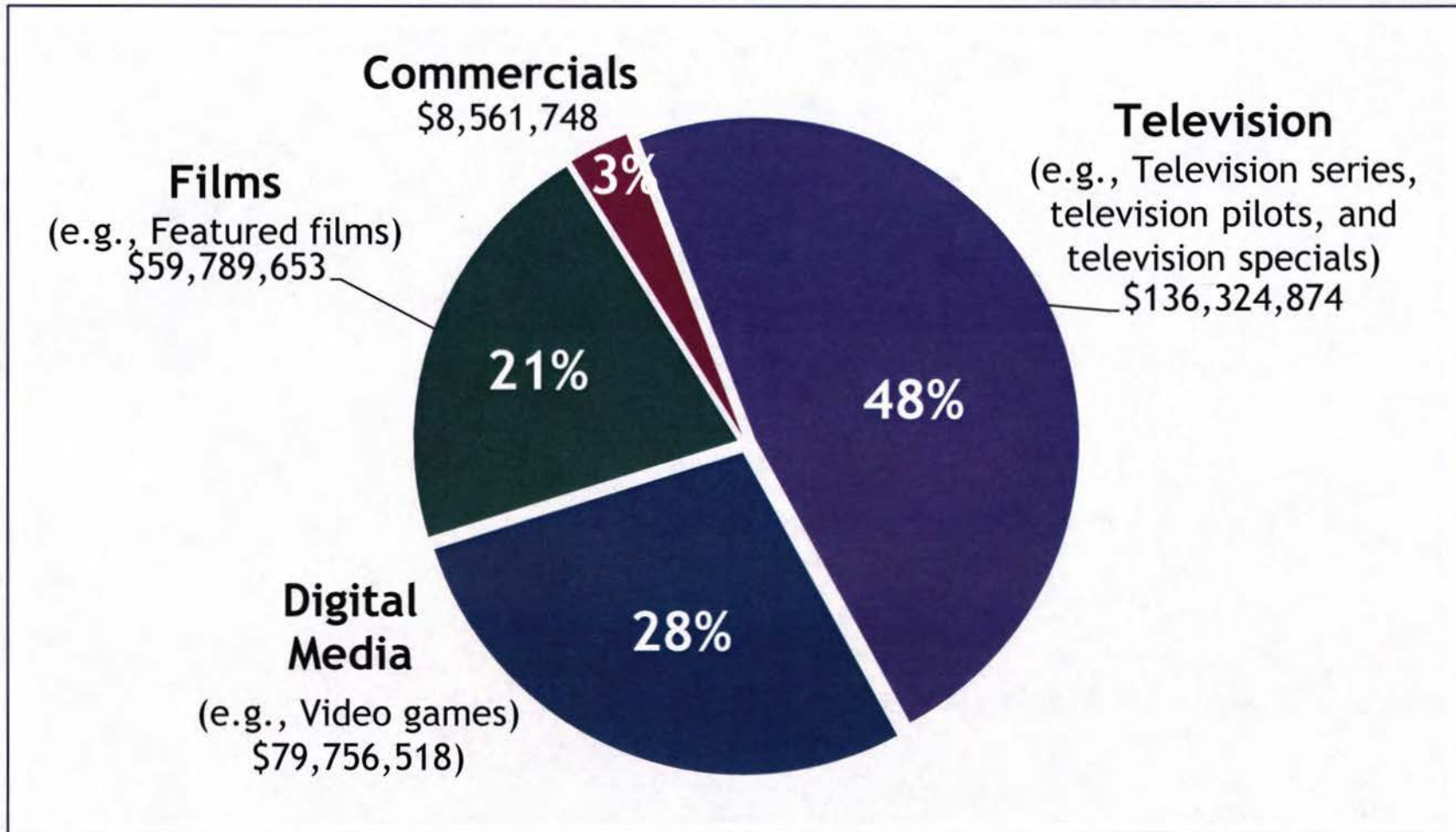
- ▶ Estimated sales tax exempted at \$15 million per year

Findings

Large Scale TV Productions in Southeast Florida Received the Most Tax Credits



Production Companies Receiving Tax Credits Made \$284 Million in Qualified Expenditures



Most Production-Related Employment is Part-Time

- ▶ Productions receiving tax credits employed 29,023 Florida residents; most employees were extras and stand-ins
- ▶ Available hourly employment data indicates most employees were part-time
- ▶ Less than 20% of total jobs reported by sales tax exemption applicants were full-time

Incentives Are Important to Location Decisions, but Florida's Incentives Received Low Ratings

Factors	Important to Location Decision	Florida Rating
Availability of a skilled work force	A	C
Labor costs	A	C
State financial incentives	A	D
Ease of access to public facilities such as roads, bridges, courthouses, rail lines, airports, etc.	B	C
Geographical features such as beaches, forests, rivers, etc.	B	B
Local financial incentives	B	F
Regulatory (permitting) structure	B	D
State tax structure	B	C
Availability of facilities such as sound stages and recording studios	C	D

Competing States Outpaced Florida in Incentive Funding

- ▶ Competing states such as California, Georgia, Louisiana, and New York offer more generous incentives
 - No caps on the amount of tax credit awarded per project
 - Credits can be applied to wages paid to out-of-state residents

Florida's Total Industry Employment Growth Was Less than Other Competing States

State	Total Industry Employment Growth
Louisiana	45.2%
New York	28.7%
Georgia	19.3%
California	16.6%
Florida	13.7%
United States	16.7%

Program Administration Could Be Improved

- ▶ Program review of production audits has resulted in a backlog and approval delays
 - It takes program staff 4-8 months to review and approve audits
 - Program recipients reported it took up to a year to receive tax credit awards
- ▶ Program managers were setting the effective dates for sales tax exemptions prior to the application dates for those exemptions

Recommendations

- ▶ If the Legislature chooses to allocate additional tax credits, require that the amount certified during a fiscal year not exceed the amount allocated for that year
- ▶ Direct DEO to use a third party to process tax credit audits
- ▶ Office of Film and Entertainment staff should discontinue backdating sales tax exemption certificates

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THE FLORIDA LEGISLATURE'S
OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations.

Return on Investment for the Entertainment Industry

February 12, 2015

Presented by:



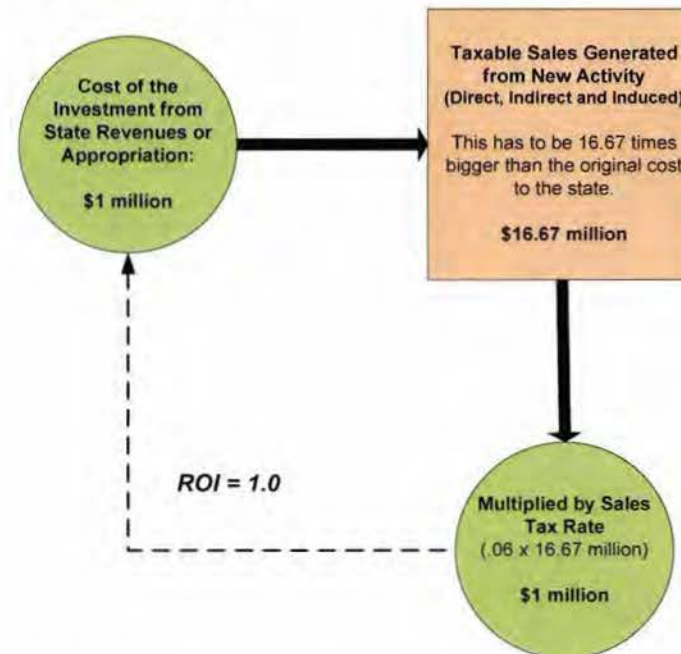
The Florida Legislature
Office of Economic and
Demographic Research
850.487.1402
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Return on Investment (ROI)...

- In EDR's analysis, the term "Return on Investment" is synonymous with the statutory term "economic benefits" which is defined in s. 288.005, Florida Statutes.

"The direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives."

Sales Tax Example...



- This measure does not address issues of overall effectiveness or societal benefit; instead, it focuses on tangible financial gains or losses to state revenues.

Secondary Effects—The Ripple

- Most analyses by the various estimating conferences focus on direct effects, which are generally static, immediate and “first-round” effects.
- EDR uses the Statewide Model to look at the effects as the policy change ripples through the economy and behaviors change.
- These secondary effects include:
 - “**Indirect Effects**” are changes in employment, income and output of local suppliers that provide goods and services to support direct economic activity.
 - “**Induced Effects**” are the changes in spending by households whose income is affected by direct and indirect economic activity.

Meaning of Returns...

Returns can be categorized as follows:

- **Greater Than One (>1.0)**...the program more than breaks even; the return to the state produces more revenues than the total cost of the incentives.
- **Equal To One (=1.0)**...the program breaks even; the return to the state in additional revenues equals the total cost of the incentives.
- **Less Than One, But Positive (+, <1)**...the program does not break even; however, the state generates enough revenues to recover a portion of its cost for the incentives.
- **Less Than Zero (-, <0)**...the program does not recover any portion of the incentive cost, and state revenues are less than they would have been in the absence of the program because taxable activity is shifted to non-taxable activity or the costs are greater than the expected benefit.

The review period for this study was Fiscal Years 2010-11 through 2012-13. The baseline is what would have happened if the investment hadn't taken place.

Economic Benefits from Entertainment Industry

	ROI	State Expenditures	Disposable Income	GDP	Jobs
Entertainment Industry Incentive – Scenario 1 Credits Taken	0.43	\$43.3	\$512.9	\$518.4	878
Entertainment Industry Incentive – Scenario 2 Credits Awarded	0.25	\$67.3	\$463.1	\$460.0	751
Entertainment Industry Sales Tax Exemption	0.54	\$44.2	\$1,704.7	\$1,747.6	3,256

Note: Dollars are reported in millions. Jobs are reported as average annual jobs created to prevent counting accumulated jobs more than once.

Two scenarios were developed for the Entertainment Industry Incentive to recognize that the current tax credit program did not begin until July 1, 2010. Because there is a lag time associated with this type of incentive, no tax credits were taken in the first year of the program (FY 2010-11), and the state costs were zero. The second scenario—credits awarded—may provide a more accurate picture of the ROI for a mature program, but it is not reflective of the actual experience during this particular three-year review period.

Comparison to Other States...

Estimates of Return on Investment by State Entities for State Film Incentive Programs

State	Year of Review	Research or Report Sponsor	% of Reimbursement for Qualified Expenditures	ROI to the State
Alaska	2012	Legislative Budget & Audit Cm	30 - 44%	\$0.07
Arizona	2008	Department of Commerce	20 - 30%	\$0.27
California	2014	Legislative Analyst Office	20 - 25%	\$0.65
Connecticut	2014	Dept. of Economic & Com. Dev.	30%	-\$0.09
	2008	Dept. of Economic & Com. Dev.	30%	\$0.08
Florida	2014	Economic & Dem. Research Credits Awarded	20 - 30%	\$0.43
		Awarded Credits Assumed Used		\$0.25
Louisiana	2013	Dept. of Economic Development	30 - 35%	\$0.11
	2011	Legislative Fiscal Office		\$0.15
	2009	Dept. of Economic Development		\$0.13
	2005	Legislative Fiscal Office		\$0.16 to \$0.18
Maryland	2014	Dept of Legislative Services-Draft	25 - 27%	\$0.06*
Massachusetts	2013	Dept. of Revenue	25%	\$0.13
Michigan	2014	Michigan Film Office**	29% (2012)	\$0.38
			37% (2011)	\$0.24
	2010	Senate Fiscal Agency	42%	\$0.11
New Mexico	2014	Dept. of Finance & Administration	25 - 30%	\$0.33
	2008	Legislative Finance Committee	25%	\$0.14
North Carolina	2014	Legislative Services Office	25%	\$0.46***
Pennsylvania	2013	Independent Fiscal Office	25 - 30%	\$0.14

* October 2014 Draft

** While commissioned by the Michigan Film Office, the analysis was conducted by Regional Economic Models, Inc., a recognized independent research entity.

***4/13/14 Preliminary

Entertainment Industry: Positive Drivers of ROI

- Entertainment Industry Financial Incentives Program

- **Scenario 1 – Tax Credits Taken**

- Additional support could have been provided by local governments that was not identified.
 - Assumption that all projects meet the “but for” test.
 - Exclusion of credits awarded but not taken. This boosted the ROI since no tax credits were taken in the first year; the program began the first year of the review period.

- **Scenario 2 – Tax Credits Awarded**

- Additional support could have been provided by local governments that was not identified.
 - Assumption that all projects meet the “but for” test.

- Entertainment Industry Sales Tax Exemption

- For the projects used in the analysis, the analysis assumes that the sales tax exemption induces the exempt expenditures; in other words, that they would not have occurred in the absence of the exemption.
 - Assumption that expenditures estimated at the time of application reflect actual expenditures. This assumption may have a neutral effect, rather than positive.

Negative Drivers of Entertainment Industry ROI

- Entertainment Industry Financial Incentives Program
 - Some capital investment projects could have taken place that were not identified.
 - Some companies participated in both programs, driving up the total state cost.
 - No spending was attributed to film-induced tourism due to inconclusive evidence from the academic literature and EDR survey results. Even if 100% as effective as major advertising efforts, the expenditure relative to \$1.37 billion in direct advertising would still be small.
 - The transitory nature of film production has impermanent effects on the economy.
 - Program design which includes *Transferability of Tax Credits* --- Credits may be sold to someone with a tax obligation, either directly or through an intermediary, and typically at a discount. The state pays more than it has to (equal to the amount of the discount) for the same amount of production activity. This drives up costs without a commensurate benefit.
- Entertainment Industry Sales Tax Exemption
 - Not all recipients meet the “but for” assumption. Certain companies were “culled.” For example, Florida companies existing prior to 2000, before the state’s incentive efforts began.
 - Some companies participated in both programs, driving up the total state cost.

Film Induced Tourism

Features of Florida that Attract Tourists

Feature	Portion of State Brand
Beaches	25.5%
Theme Park	24.3%
Retail/Dining/Nightlife	21.8%
Outdoor Recreation	7.1%
Access to International Ports or Airports	6.7%
Sports	6.0%
Festivals	4.3%
Parks/Natural Site	2.7%
Historical Significance	1.6%
Film Induced Tourism	0.0%

Source: EDR analysis of self-conducted survey results

EDR surveyed the various local governments that levy the Tourist Development Tax or their respective Destination Marketing Organizations. Survey results indicated that the major tourist markets do not consider film to be a significant influence on tourists' decisions to choose Florida as their vacation destination.

- To date, there are few thorough studies that quantify the impacts of film tourism. However, several studies have pointed to the need for further research.
- The limited peer-reviewed literature there suggests that to the extent it does occur, a very specific set of circumstances must exist. Even then, the impacts are generally localized and of a small size.
- Because Florida is already a significant tourist destination, marketing exposure through the entertainment industry would have to rival the tourism marketing efforts by governmental and private entities in order to produce quantifiable results. (\$1.37 billion during Fiscal Years 2010-11 through FY 2012-13)

Options for Improving the Entertainment Industry's ROI...

- Entertainment Industry Financial Incentive

- Remove the loss associated with the transferability of tax credits by awarding cash grants instead of the credits.

Option 1...Set total cash awards equal to the projected cost for credits which would actually increase the dollars flowing directly to the industry (no leakage).

Option 2...Set total cash awards equal to the existing discounted level that actually goes to the industry which would reduce the program's costs while maintaining the same level of output.

- Include a capital investment requirement.
- Introduce more competition for awards and stronger qualifying criteria.
- Link award levels to the level of actual Florida exposure in the production—essentially buying direct “product” placement—in order to provide a quantifiable connection to tourism.
- Require or strongly reward recipients for completing pre-production and post-production work in Florida, introducing forward and backward linkages.

- Entertainment Industry Sales Tax Exemption

- Consider changing to a refund program with additional criteria and/or targeting.

Tax Credits

- Transferability allows an entity that has a greater value of tax credits than liability to sell them, usually at a discount. It also allows an entity with liability over multiple years to get cash upfront.

Current Tax Credit Approach...

\$ 1,000,000	Tax Credit Award to Film Production with No Tax Liability	
<u>0.85</u>	Film Production Sells Discounted \$1 M Credit to Unrelated Business that Has Liability	
\$ 850,000	Cash Generated for Film Production by Selling Tax Credit	
\$ 150,000	Effective Tax Break Generated for Unrelated Business (buys for \$850,000, uses for \$1 million)	
\$ 1,000,000	Total State Cost When Credit Is Used	

Two Approaches Using Cash Awards...

* Use Difference to Increase Direct Award to Film Production

\$ 1,000,000	Cash Award to Film	---Greater \$ in Production
\$ -	Tax Break Generated for Unrelated Business	
\$ 1,000,000	Total State Cost for Award	

* Reduce Award to Reflect Actual Value to Film Production

\$ 850,000	Cash Award to Film	---Equal \$ in Production
\$ -	Tax Break Generated for Unrelated Business	
\$ 850,000	Total State Cost for Award	

Comparison to Other Programs...

Ranked Incentives and Investments	ROI	STATUS
Qualified Target Industry (QTI)	6.4	More than Breaks Even (State makes money from the investment)
Florida Sports Foundation Grant Program	5.6	
Economic Evaluation of Florida's Investment in Beaches	5.4	
VISIT FLORIDA Advertising	3.2	
Capital Investment Tax Credit (CITC)	2.3	
Brownfield	1.1	
Quick Action Closing Fund (QACF)	1.1	Does Not Break Even (however, the state recovers a portion of the cost)
High-Impact Sector Performance Grant (HIPI)	0.70	
Entertainment Industry Sales Tax Exemption (STE)	0.54	
Entertainment Industry Financial Incentives Program (Tax Credit or FTC)	0.43	
Professional Sports Franchise Incentive	0.30	
Innovation Incentive Program (IIP)	0.20	
Spring Training Baseball Franchise Incentive	0.11	
Urban High-Crime Area Job Tax Credit	0.07	State Loses All of Its Investment (plus incurs additional costs)
Enterprise Zones	-0.05	
Professional Golf Hall of Fame Facility Incentive	-0.08	
International Game Fish Association World Center Facility Incentive	-0.09	