

CS/CS/HB 83 — Venture Capital Investments

by Policy and Budget Council; Economic Expansion and Infrastructure Council; and Rep. Grant and others (CS/CS/CS/CS/SB 2420 by Transportation and Economic Development Appropriations Committee; Finance and Tax Committee; Governmental Operations Committee; Commerce Committee; and Senators Ring, Fasano, Joyner, and Crist)

This bill promotes venture capital investment in Florida with the creation of three entities or programs, discussed below. It also appropriates \$35 million in nonrecurring general revenue in FY 2007-2008, to carry out the bill's purposes.

The bill creates the Florida Opportunity Fund, a private, not-for-profit corporation organized and operated under ch. 617, F.S., with Enterprise Florida, Inc. (EFI), as its sole shareholder or member. A selection committee comprised of EFI board members will appoint the five-member board of directors for the Florida Opportunity Fund.

The Florida Opportunity Fund will hire an experienced investment manager to help it invest in a “fund-of-funds” approach in seed and early-stage venture capital funds. Such investments must focus on investment opportunities in Florida, in companies that include, but are not limited to, enterprises in life sciences, information technology, advanced manufacturing processes, aviation and aerospace technologies, and homeland security and defense.

In its annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives due each December 1, the Fund must include, at least, an accounting of the amount of investments disbursed, a description of the program's benefits, such as the number of businesses and jobs created; and copies of independent audits.

The bill appropriates \$29.5 million in nonrecurring general revenue in FY 2007-2008 to the Florida Opportunity Fund for investments, and \$500,000 for start-up activities.

The bill also creates the Institute for the Commercialization of Public Research. This institute, operated by a public university and based in South Florida, shall mentor and otherwise assist companies close to bringing their products to market. The actual site will be selected by the EFI Board of Directors after review of proposals submitted by interested public Florida universities.

The institute's primary purpose is to assist in the commercialization of products developed by the research and development activities of publicly supported universities and colleges, research institutes, and other publicly supported organizations within the state. To be eligible for assistance, the company or organization attempting to commercialize its product must be accepted by the institute before receiving the institute's assistance.

The institute's other responsibilities are:

- Support existing commercialization efforts at Florida universities, and not supplant, replace, or direct existing technology transfer operations or other commercialization programs, including incubators and accelerators.
- Maintain a centralized location to showcase companies and their technologies and products;
- Routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- Facilitate meetings between prospective investors and eligible organizations in the institute; and
- Issue a report by Dec. 1 of each year that includes information on any assistance and activities provided by the institute; a description of the benefits to the state, such as the number of businesses started and jobs created; and copies of independently audited financial statements.

The bill appropriates \$900,000 in nonrecurring general revenue in FY 2007-2008 for the institute's operational expenses; and \$100,000 in nonrecurring general revenue to EFI to pay start-up costs associated with the institute.

Also created in the bill is the State University Research Commercialization Assistance Grant Program, within the existing Florida Technology, Research, and Scholarship Board of the State University System (SUS). The board will distribute grants to state universities to finance early-stage, pre-marketing activities geared to commercializing university research products. The grants will range from \$100,000 to \$250,000.

The bill appropriates \$4 million in nonrecurring general revenue in FY 2007-2008 to the SUS' Board of Governors for the grants.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 37-0; House 116-0

CS/CS/SB 131 — Public Records and Meetings

by Policy and Budget Council; Economic Expansion and Infrastructure Council; and Rep. Grant (CS/CS/SB 2422 by Governmental Operations Committee; Commerce Committee; and Senators Ring, Fasano, and Crist)

This bill creates a public records and public meetings exemption for certain information relating to venture capital investment in Florida businesses created by its linked bill, CS/CS/HB 83, an act relating to venture capital investments.

CS/CS/SB 131 makes confidential and exempt certain proprietary, confidential business information held by three entities: the Florida Opportunity Fund, the Institute for the Commercialization of Public Research, and the Florida Technology, Research, and Scholarship Board. The bill also creates a public meetings exemption where certain information is discussed.

Specifically, the bill creates public records or meetings exemptions for:

- Materials related to the methods of manufacture or production, for potential trade secrets, or for patentable material received, generated, or discovered during the course of research or research projects funded under the new venture capital investment programs;
- Information that would identify an investor or potential investor who desires to remain anonymous;
- Any information received from a person from another state or nation or the federal government that is confidential or exempt under their laws;
- Proprietary confidential business information for 10 years after the termination of the alternative investment, in the case of the Florida Opportunity Fund and the Institute for the Commercialization of Public Research;
- That portion of a meeting of either of the three entities where confidential and exempt information is discussed, as well as the transcript and meeting minutes of those closed portions of a meeting.

At the time any of the records, materials or information made exempt by this bill becomes legally available or subject to public disclosure, then they are no longer confidential and exempt and are available for public review and copying.

The bill also establishes a process by which a request to inspect or copy a record made confidential and exempt by this bill for the Florida Opportunity Fund and the Institute for the Commercialization of Public Research may be granted by the courts, if the proprietor of the information has not verified certain information.

The bill provides for future review and repeal of the exemptions on October 2, 2012, and provides statements of public necessity.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 117-0

CS/CS/SB 252 — Uniform Commercial Code

by Judiciary Committee; Commerce Committee; and Senators Aronberg and Lynn (CS/SB 2148 by Commerce Committee and Senators Deutch and Lynn)

This bill amends Article 1 of the Uniform Commercial Code (UCC or code), which is codified mainly in ch. 671, F.S. The changes, which are primarily technical, are based on revisions made

in 2001 to Article 1 of the UCC model code by the National Conference of Commissioners on Uniform State Laws and the American Law Institute. More specifically, the bill:

- Revises, deletes and provides new definitions;
- Revises the statutes to recognize changing business practices, particularly as they reflect terms and practices arising from electronic commerce;
- Clarifies the scope of Article 1 to encompass only transactions within the scope of other articles of the UCC;
- Defines the application of supplemental laws to the UCC such as the Electronic Signatures in Global and National Commerce Act (E-sign);
- Revises the definition of good faith to conform to the definition of that term as used in the majority of the recently revised UCC articles;
- Provides that evidence of “course of performance” may be used to interpret a contract along with “course of dealing” and “usage of trade”;
- Deletes references to electronic filing in the fees provision, thereby, making current fees applicable to hard copy submissions as well as future electronic filings;
- Amends the fee provision of s. 713.901, F.S., the Florida Uniform Lien Registration Act, to specify the current filing and registration fees using the terminology of the act rather than that of the UCC; and
- Conforms cross-references to reflect the revisions to the code.

In addition, the bill incorporates the provisions of CS/SB 2148 and amends ss. 608.406 and 608.407, F.S., to require limited liability companies registered with the Department of State (DOS) to be distinguishable in the databases maintained by the Division of Corporations within DOS, with certain exceptions. In addition, the bill prohibits DOS from continuing to record duplicate names.

If approved by the Governor, these provisions take effect January 1, 2008.

Vote: Senate 39-0; House 118-0

CS/SB 426 — Ads/False, Deceptive, Misleading

by Judiciary Committee and Senators Saunders and Crist

This bill prohibits a person from advertising or conducting a live musical performance by using a false, deceptive, or misleading statement of an affiliation, connection, or association between a performing person or group and a recording person or group.

There is no violation of this prohibition if:

- The performing person or at least one member of the performing group was a member of the recording group and has the legal right to use the name of the recording group by not abandoning the affiliation with the recording group or its name;
- The performing person or group is the authorized registrant and owner of a federal service mark for that person or group which is registered with the United States Patent and Trademark Office;
- The live musical performance or production is identified as a “salute” or “tribute” to, and is otherwise unaffiliated with, the recording person or group;
- The advertising does not relate to a live musical performance taking place in this state; or
- The performance is expressly authorized in the advertising by the recording person or group.

Any person who violates the prohibition commits a misdemeanor. The bill also authorizes the Department of Legal Affairs or a state attorney to file a civil action for injunctive relief and authorizes a court to impose a civil penalty of up to \$5,000 for each violation.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 113-0

CS/CS/HB 1283 — Black Business Investment

by Policy and Budget Council; Economic Expansion and Infrastructure Council; and Rep. Carroll and others (CS/CS/CS/SB 2860 by Transportation and Economic Development Appropriations Committee; Governmental Operations Committee; Commerce Committee; and Senators Joyner, Wilson, and Bullard)

The bill creates the Florida Black Business Investment Act, which is intended to increase the availability of capital to black business enterprises. The bill recreates the Black Business Investment Board (FBBIB) as a not-for-profit corporation to evaluate the needs and aid in the development of black business enterprises.

The bill also creates the Black Business Loan Program, under the administration of the Office of Tourism, Trade, and Economic Development (OTTED), to provide loans, loan guarantees, and investments through eligible recipients such as Black Business Investment Corporations (BBICs) or others, to black business enterprises that cannot otherwise obtain capital through conventional lending institutions. OTTED is required to annually certify entities to receive funds from the program. The FBBIB is required to receive and forward the applications for certification, and recommend to OTTED which entities should be annually certified. OTTED is required to contract with the entities certified to receive funds from the Black Business Loan Program, and specifies the conditions of such contracts, including recovery of disbursed funds when performance conditions are not met.

The bill requires the FBBIB to:

- Submit to OTTED quarterly compilations of the quarterly reports submitted by certified entities that have received funds from the Black Business Loan Program;
- Submit an annual report on the performance of the Black Business Loan Program to the Governor, President of the Senate, and Speaker of the House of Representatives; and
- Promote the expanded black business bonding program, which assists qualified black contractors in obtaining surety bonds and other credit instruments.

As to the regional BBICs, the bill:

- Expands the representation of the regional BBICs on the FBBIB;
- Makes it unlawful for any entity to hold itself out as a black business investment corporation without being certified as eligible to participate in the Florida Black Business Loan Program;
- Grants the BBICs priority consideration for funding from the Black Business Loan Program; and
- Allows the BBICs to use 7 percent of the Black Business Loan Program funds they receive to provide technical support to black business enterprises and 10 percent of program funds to fund direct administrative costs.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to prepare a status report and conduct a program review of the implementation of the Florida Black Business Investment Act.

The bill also declares that the public interest of the state has been served with respect to the use of any state funds received by the board and any BBICs prior to and through FY 2005-2006.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House 117-0

CS/HB 1301 — Workforce Services

by Economic Expansion and Infrastructure Council and Rep. Aubuchon and others (CS/SB 1926 by Children, Families and Elder Affairs Committee; and Commerce Committee)

This bill amends portions of the workforce statutes, ss. 402.305, 445.024, and 445.032, F.S., in order to align them with the federal Temporary Assistance to Needy Families (TANF) program. These TANF revisions reflect changes made by the Department of Health and Human Services (HHS) following the passage of the federal Deficit Reduction Act of 2005. Specifically, CS/HB 1301 does the following:

- Deletes lengthy descriptions of work requirements for TANF recipients in s. 445.024, F.S. This change will align state practice to federal work requirement definitions, which were not previously detailed by federal law, but are now specifically outlined in the HHS interim final rule.
- Inserts language into the transitional child care statute, s. 445.032, F.S., to emphasize that child care is only available to assist those seeking employment, attempting to retain employment or attempting to improve their employment prospects.
- Amends s. 402.305, F.S., to correct cross-references and to replace the term “community service work experience activity” with “community service program” in order to conform to the proper federal term.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 111-0

CS/CS/HB 1325 — Entertainment Industry

by Policy and Budget Council; Economic Expansion and Infrastructure Council; and Rep. D. Davis and others (CS/SB 96 by Commerce Committee and Senators Saunders, Lynn, Bullard, and Crist)

This bill extensively amends s. 288.1254, F.S., reorganizing the existing cash-incentive program, revising the categories for entertainment productions, and establishing new criteria for qualifying production expenditures for state reimbursement.

Specifically, the bill creates three “queues,” or categories, of entertainment productions eligible to receive cash incentives: the General Production queue (which includes major movies and television series); the Independent Florida Filmmaker queue; and the Digital Media Projects queue.

Productions in each queue must meet specific hiring and other criteria in order to obtain the cash incentives that reimburse a portion of their qualified expenditures. Of the amount appropriated by the state for the cash incentives: 85 percent is earmarked for qualified expenditures in the General Production queue; 5 percent is earmarked for the Independent Florida Filmmaker queue; and 10 percent is earmarked for the Digital Media Production queue.

General Productions also are eligible for greater percentage incentives if they meet the specified requirements as a “family-friendly film” or if they are filmed during the “off-season,” June 1-November 30.

The bill also:

- Directs the state Office of Film and Entertainment to include in its annual report information about the economic benefits to Florida from the film industry;
- Adds a severability clause;

- Repeals an unnecessary section of law related to the film and entertainment program's funding; and
- Creates penalties for fraudulent applications and claims filed for the incentive funding. Violators must not only repay the fraudulently received incentive funding, but also a penalty double that amount.

The bill appropriates \$25 million in non-recurring general revenue for FY 2007-2008.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 120-0

CS/SB 1644 — Retail Theft

by Criminal and Civil Justice Appropriations and Senators Gaetz, Lynn, and Crist

This bill amends the theft statute, s. 812.014, F.S., to provide that it is a second degree felony to individually, or in concert with one or more other persons, coordinate the activities of one or more persons in committing theft where the stolen property has a value in excess of \$3,000.

This bill amends the retail theft statute, s. 812.015, F.S., to provide that it is a second degree felony to individually, or in concert with one or more persons, coordinate the activities of one or more persons in committing retail theft where the stolen property has a value in excess of \$3,000.

The bill amends the Criminal Punishment Code offense severity ranking chart to rank the second degree felonies in Level 6.

If approved by the Governor, these provisions take effect October 1, 2007.

Vote: Senate 40-0; House 117-0

CS/SB 1952 — Department of Agriculture and Consumer Services

by Higher Education Committee and Commerce Committee (SB 1862 by Senators Bennett, Gaetz, Lynn, and Crist)

With one exception, the provisions in this bill relate to consumer service issues under the jurisdiction of the Department of Agriculture and Consumer Services (the department). An additional issue relates to the use of the term "Chamber of Commerce."

The bill requires private investigators, managers of private investigative agencies, and private investigator interns to pass an exam before applying for licensure, and requires private investigator interns to complete a course on private investigative techniques. The bill also revises the requirements for those who provide training courses for recovery agents.

The bill updates the statutory reference to the organization from which Florida adopts antifreeze standards.

The bill increases the duration required between calibrations of petroleum measuring devices for volumes of 500 gallons or more from 1 year to 3 years.

Regarding brake fluid registration, the bill:

- Permits non-owners of brake fluid brand names to register brake fluid products with the department;
- Reduces the amount of the brake fluid sample required for registration from 64 ounces to 24 ounces; and
- Removes the requirement to affix labels to the brake fluid bottles when submitting samples to the department for registration and testing.

The bill revises the evidentiary requirement for proof of insurance or bond for certain applicants for liquefied petroleum licenses.

The bill expands the restrictions on unauthorized handling of gas in propane gas tanks.

The bill creates the 13 member Consumer Fertilizer Task Force within the department to address the proper use of non-agricultural fertilizers and local regulation related to such non-agricultural fertilizers. Specifically, the task force is charged to:

- Assess existing data and information regarding nutrient enrichment and surface waters due to fertilizer, assess management strategies for reducing water quality impacts associated with fertilizer, and identify additional research needs;
- Develop statewide guidelines governing nonagricultural fertilizer use rates, formulations, and applications;
- Take public input and testimony concerning these issues;
- Recommend methods to ensure local ordinances are based on best available data and science and to achieve uniformity among local government ordinances where possible, unless local ordinance variations are necessary to meet mandated state and federal water quality standards; and
- Develop model ordinances for municipalities and counties concerning the use of nonagricultural fertilizer.

The task force will be staffed by the department and shall consist of three appointments by the President of the Senate, three appointments by the Speaker of the House of Representatives, five appointment by the Commissioner of Agriculture, one member appointed by the Florida League of Cities, Inc., and one member appointed by the Florida Association of Counties.

The bill contains the provisions of SB 1862, and both defines the term “Chamber of Commerce” and prohibits a business entity that does not qualify as a chamber of commerce from using the

term in its business name or to describe itself. The bill specifies that unauthorized use of the term “chamber of commerce” is a first-degree misdemeanor. A chamber of commerce is authorized to enjoin an entity improperly using the term from continuing to do so.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 39-0; House-11

HB 7201 — Public Records

by Government Efficiency and Accountability Council and Rep. Attkisson (CS/SB 1182 by Governmental Operations Committee and Commerce Committee)

This bill combines the two public records exemptions relating to the promotion and administration of economic development by state and local governments (ss. 288.075 and 288.1067, F.S.) into one provision. In addition, it expands the exemption to require that:

- “Proprietary business information” be protected indefinitely or until it is otherwise publicly available or no longer treated by the proprietor as confidential;
- “Trade secrets” be held confidential and exempt indefinitely, rather than for a period of ten years; and
- Business’ federal employment identification numbers, unemployment compensation account numbers, and Florida sales tax registration numbers be held confidential indefinitely, rather than only for the time period in which the business is participating in an incentive program.

This bill amends sections 288.075 and repeals s. 288.1067 of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2007.

Vote: Senate 40-0; House 113-1