

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1551

Black Business Investment Board, Inc.

**SPONSOR(S):** Carroll

**TIED BILLS:**

**IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Economic Development Policy Committee		Tait	Kruse
2)	Transportation & Economic Development Appropriations Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

In 1985, the Legislature created the Florida Black Business Investment Board (the board) to support the creation and expansion of black-owned enterprises in Florida. In 2007, the Legislature passed the Florida Black Business Investment Act, which recreated the Florida Black Business Investment Board as a not-for-profit public-private partnership to evaluate the needs of black business enterprises and aid in their development. The act also established the Black Business Loan Program within OTTED to provide loans, loan guarantees, and investments through eligible recipients, such as regional black business investment corporations, to black business enterprises that cannot otherwise obtain capital through conventional lending institutions.

The bill makes clarifying changes to the Florida Black Business Investment Board and the Black Business Loan Program, based on implementation of the Florida Black Business Investment Act, passed in 2007. The bill also strives to expand the scope of the board to include federal participation, including seeking federal funds to aid in the development and expansion of black business enterprises. In addition, the board is given greater leeway in collaboration with other groups to form a support network for black business enterprises.

The bill changes the board from a not-for-profit public-private entity to a not-for-profit corporation. It also makes some changes to the composition and leadership of the board of directors.

The bill adds the provision that should the board be dissolved, any asset that is not acquired through the use of state funds, or the funding or resources necessary to acquire the asset shall be returned to the donor who provided the asset.

The bill revises the application process and deadlines for the Black Business Loan Program. The bill also increases the maximum allowable percentages that a black business investment corporation may use funds appropriated from the Black Business Loan Program for technical support to black businesses and direct administrative costs. The bill also makes minor changes the provisions related to prohibited acts and penalties in regard to the loan program.

The bill amends the requirements for the board to provide assistance to the Office of Supplier Diversity within the Department of Management Services in implementing the black contractors building bonding program.

The bill changes the reporting requirements so that OTTED is responsible for issuing reports on the Black Business Loan Program, instead of the board. In addition, OTTED must compile a summary of all quarterly reports and provide a copy of the summary to the board within 30 days after the end of the calendar quarter. OTTED is also responsible for issuing an annual report to the Governor, the President of the Senate, and the Speaker of the House.

The bill takes effect upon becoming a law.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

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**DATE:** 3/15/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background:**<sup>1</sup>

In 1985, the Legislature created the Florida Black Business Investment Board (the board) to support the creation and expansion of black-owned enterprises in Florida.<sup>2</sup> To accomplish this goal, the board performed various activities, including facilitating procurement opportunities for minority businesses, and allocating capitalization funds appropriated by the Legislature to eight regional black business investment corporations and a statewide investment corporation. During the period from Fiscal Year 1985-86 through Fiscal Year 2005-06, the board allocated approximately \$10 million in capitalization funds to the regional investment corporations to provide loans and loan guarantees to black business owners.

In a 2007 report, the Office of Program Policy Analysis & Government Accountability concluded that the Florida Black Business Support Corporation and the regional investment corporations appeared to have developed and implemented reasonable control processes for providing loans and loan guarantees to black-owned businesses. However, it also found that there had been considerable ongoing controversy between the board and the regional investment corporations.

- From Fiscal Year 2002-03 through Fiscal Year 2004-05, the board did not release appropriated capitalization funds to the regional investment corporations. It withheld the funds because it contended that the regional investment corporations had not reported required performance information. However, some regional investment corporation presidents asserted they had provided the board with the contractually required performance information during this period.
- The board and the regional investment corporations disagreed over the board's decision to provide funding to black-owned businesses through the Florida Black Business Support Corporation, which was a subsidiary of the board. Some regional corporation presidents expressed concern that the board's decision to withhold state funding from the investment corporations from 2002 through 2005 could have been due to the board's desire to retain funds for the Support Corporation, which they viewed as a competing entity. (In January 2007, the

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<sup>1</sup> The background information for this analysis is taken from the Office of Program Policy Analysis & Government Accountability Report No. 08-65, "Black Business Investment Act Is Being Implemented, But Progress Was Slow in Distributing Loan Program Funding."

<sup>2</sup> Chapter 85-104, Laws of Florida.

statewide support corporation began operating as an independent organization with its own board of directors and staff.)

### Florida Black Business Investment Act

In 2007, Legislature passed the Florida Black Business Investment Act, which recreated the Florida Black Business Investment Board as a not-for-profit public-private partnership to evaluate the needs of black business enterprises and aid in their development.<sup>3</sup>

The act directed the board to assist in the development and expansion of black business enterprises by:

- Creating partnerships and leveraging state, local, and private funds to aid in the development and expansion of black business enterprises, and
- Serving as a clearinghouse for information and sources of technical assistance for black business enterprises.

The act also established the Black Business Loan Program within OTTED to provide loans, loan guarantees, and investments through eligible recipients, such as regional black business investment corporations, to black business enterprises that cannot otherwise obtain capital through conventional lending institutions. The board was to advise OTTED in implementing the program.

The Florida Black Business Investment Act specifies that the board's primary mission is to assist in the development and expansion of black business enterprises. To accomplish this mission, the board has been establishing partnerships with several public and private entities and seeking funds to implement a surety bond premium finance program.

For the 2009-2010 fiscal year, the Black Business Investment Board was allocated \$350,000 for operations and administration of the board, OTTED was allocated \$48,000 for the administration of the Black Business Loan Program, and \$2.352 million was allocated for the loan program itself.

### Composition of the Florida Black Business Investment Board's Current Board of Directors

The board currently consists of the following members:

- Five members appointed by the Governor who will serve terms of 4 years each, except that in making initial appointments, the Governor must appoint three members to serve for terms of 2 years each and two members to serve for terms of 3 years each.
- One member appointed by the President of the Senate who will serve a term of 2 years.
- One member appointed by the Speaker of the House of Representatives who will serve a term of 2 years.
- The vice chair of Enterprise Florida, Inc., or his or her designee.
- The chair of the Florida Development Finance Corporation created pursuant to s. 288.9604, F.S.
- Four presidents of participating black business investment corporations who will be appointed by the Executive Director of OTTED upon the recommendation of the Florida Consortium of Black Business Investment Corporations, Inc., to serve for terms of 3 years each. Each is eligible for reappointment to one additional term of 3 years.

The Governor appoints a member of the board as chair of the board, who serves at the pleasure of the Governor. The board annually elects one of its members as vice chair.

### **Effects of Proposed Changes**

The bill makes clarifying changes to the Florida Black Business Investment Board and the Black Business Loan Program, based on implementation of the Florida Black Business Investment Act, passed in 2007. The bill also strives to expand the scope of the board to include federal participation.

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<sup>3</sup> Chapter 2007-157, Laws of Florida.

HB 1551 changes the Florida Black Business Investment Board from a not-for-profit public-private entity to a not-for-profit corporation. The change conforms with the status of the board prior to the 2007 legislation. The bill also charges with the board with assisting the Governor’s Office of Tourism, Trade, and Economic Development in the creation of a long-range strategic policy for the Black Business Loan Program. In addition, the bill expands the scope of the partnerships that the board should create to aid in the development and expansion of black business enterprises to include federal governments and national organizations.

Changes to the Florida Black Business Investment Board’s Board of Directors

The bill makes several changes to the composition of the board of directors for the Florida Black Business Investment Board. The bill reduces the number of members appointed by the Governor from five to four, removes the chair of the Florida Development Corporation, and adds two at-large members. The at-large members are selected by the other board members, and are to be nationally known for their achievements in finance, small business development, or economic development. Additionally, the bill changes the status of the vice chair of Enterprise Florida, Inc. to be an ex officio, nonvoting member.

The bill changes the leadership of the board. The board is to elect a chair and vice chair from its members for a term of 2 years. The chair may be removed by a two-thirds vote of the board membership.

Overview of Changes in Board of Directors Membership

Current	HB 1551
5 members appointed by the Governor, who serve 4 year terms	4 members appointed by the Governor, who serve 4 year terms
1 member appointed by the President of the Senate, who serves a 2 year term	1 member appointed by the President of the Senate, who serves a 2 year term
1 member appointed by the Speaker of the House of Representatives, who serves a 2 year term	1 member appointed by the Speaker of the House of Representatives, who serves a 2 year term
The vice chair of Enterprise Florida, Inc. or designee	The vice chair of Enterprise Florida, Inc. or designee – <b>ex officio, nonvoting member</b>
The chair of the Florida Development Finance Corporation created pursuant to s. 288.9604	REMOVED
VACANT	2 at-large members selected by the board of directors who are nationally known for their achievements in finance, small business development, or economic development
4 presidents of participating black business investment corporations appointed by the Executive Director of OTTED, upon the recommendation of the Florida Consortium of Black Business Investment Corporations, Inc., who serve 3 year terms, with eligibility for 1 additional term each	4 presidents of participating black business investment corporations appointed by the Executive Director of OTTED, upon the recommendation of the Florida Consortium of Black Business Investment Corporations, Inc., who serve 3 year terms, with eligibility for 1 additional term each
<b>TOTAL MEMBERS: 13</b>	<b>TOTAL MEMBERS: 13</b>

Assets

The bill adds the provision that should the board be dissolved, any asset that is not acquired through the use of state funds, or the funding or resources necessary to acquire the asset shall be returned to the donor who provided the asset.

## Duties of the Board

The bill expands the duties of the board to include seeking federal funds to aid in the development and expansion of black business enterprises.

The bill also deletes the requirement that the board collaborate with the Department of Transportation, the Department of Management Services, including the Florida Minority Business Loan Mobilization Program, Workforce Florida, Inc., and other state agencies and partners, the State University System, including Florida Agricultural and Mechanical University's Institute of Urban Policy and Commerce, school boards, and local governments to create a network of information and to identify available resources to enhance the development and expansion of black business enterprises. Instead, the board is directed to collaborate with agencies of the federal, state, and local governments, private entities, nonprofit organizations, and national organizations to create the network and identify available resources. This change will allow the board to reach out to additional partners to assist black business enterprises.

## Black Business Loan Program

The bill revises the application process to remove the board's involvement in the application and certification process for the Black Business Loan Program. OTTED is now the sole arbiter of the application for the program.

In addition, the bill changes the application deadlines from July 1<sup>st</sup> to June 1<sup>st</sup> for submissions, and the processing deadline from September 30<sup>th</sup> to July 31<sup>st</sup>. If funds are appropriated for the program, OTTED must distribute an equal amount of the appropriation on or before July 31<sup>st</sup> of that fiscal year, a change from the previous deadline of September 30<sup>th</sup>.

Existing recipients are required to annually submit a financial audit performed by an independent certified public accountant to OTTED. New recipients retain the application requirements under existing statute. Both new and existing recipients are required to maintain their books and records relating to funds received and make those books and records available to OTTED for inspection upon reasonable notice.

The bill increases the maximum allowable percentages that a black business investment corporation may use funds appropriated from the Black Business Loan Program for technical support to black businesses from 7 percent to 13 percent and direct administrative costs from 10 percent to 14 percent.

The bill also makes minor changes the provisions related to prohibited acts and penalties, removing the board from the statute and allowing OTTED, instead of the board, to bring a civil action against any person knowingly or willfully violating the statutes regarding the Florida Black Business Loan Program.

## Guarantor Funds

The bill amends the requirements for the board in implementing the black contractors building bonding program. The board no longer has to provide assistance to the Office of Supplier Diversity within the Department of Management Services to certify new black business enterprises and to train appropriate department staff. In addition, the requirement that the board prepare a report to the Governor by December 31, 2007 regarding the implementation of the black contractors bonding program is removed, as that requirement has been met.

## Reports

The bill changes the reporting requirements so that OTTED is responsible for issuing reports on the Black Business Loan Program, instead of the board. In addition, OTTED must compile a summary of all quarterly reports and provide a copy of the summary to the board within 30 days after the end of the calendar quarter.

OTTED is also responsible for issuing an annual report to the Governor, the President of the Senate, and the Speaker of the House.

Effective Date

The bill has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 288.707, F.S., relating to the Florida Black Business Investment Board, Inc.

**Section 2:** Amends s. 288.709, F.S., relating to the powers of the Florida Black Business Investment Board, Inc.

**Section 3:** Amends s. 288.7091, F.S., relating to the duties of the Florida Black Business Investment Board, Inc.

**Section 4:** Amends s. 288.7102, F.S., relating to the Black Business Loan Program.

**Section 5:** Amends s. 288.71025, F.S., relating to prohibited acts and penalties in regards to the Florida Black Business Loan Program.

**Section 6:** Amends s. 288.712, F.S., relating to guarantor funds in regards to the black contactors bonding program.

**Section 7:** Amends s. 288.714, F.S., relating to quarterly and annual reports for the Black Business Loan Program.

**Section 8:** Provides an effective date of upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

No change, as the amount allocated for the loan program is appropriated annually by the Legislature.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in additional capital investments in black business enterprises in Florida.

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 government.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill reduces the number of members appointed by the Governor to the board of directors from five to four, but does not specify which seat is slated to expire.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**