

Bill No. CS for CS for SB 2524, 2nd Eng.

Amendment No. 010 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Valdes offered the following:

**Amendment to Amendment (243299) (with title amendment)**

On page 55, between lines 28 and 29, of the amendment

insert:

Section 30. Section 288.9530, Florida Statutes, is created to read:

288.9530 The Florida Business Expansion Corporation.--  
(1) The Florida Business Expansion Corporation is  
hereby created as a corporation not-for-profit, to be  
incorporated under the provisions of chapter 617. The  
corporation is organized on a nonstock basis. The corporation  
shall provide business expansion assistance to businesses in  
this state having job growth or emerging technology potential  
and fewer than 50 employees and a net worth of not more than  
\$3 million. The primary purpose of the corporation shall be to  
assist such Florida businesses to grow through the development  
of cross-border transactions which lead to increased revenues,  
cost reductions, sales or investments for Florida businesses.  
For purposes of this Act, "cross-border transactions" shall be

1 defined as the formation of joint venture, strategic alliance,  
2 investment, technology transfer or licensing, co-development,  
3 or other commercial relationships between Florida businesses  
4 and non-Florida entities. In providing its services, the  
5 corporation shall seek to recover its costs and expenditures  
6 of state funds via fee, equity participation, or any other  
7 form of revenue generation or recovery, and to achieve the  
8 self-sufficiency of its operations. It is the intent of the  
9 Legislature that the corporation achieve self-sufficiency  
10 within three years of its establishment. For the purposes of  
11 this section, the term "self-sufficiency" shall mean that the  
12 annual expenses of operation of the corporation shall be less  
13 than or equal to the total value of the compensation derived  
14 including fee, equity participation, or any other form of  
15 revenue generation or recovery from the operations of the  
16 corporation by June 30, 2001.

17 (2) The corporation shall not duplicate the services  
18 and programs of Enterprise Florida, Inc., the Florida Export  
19 Finance Corporation, and any other existing economic  
20 development entity. The corporation programs are to serve  
21 small to mid-sized Florida firms in conducting transactions  
22 with entities located in other states and nations.

23 Section 31. Section 288.9531, Florida Statutes, is  
24 created to read:

25 288.9531 Powers and Duties of the Corporation.--

26 (1) In addition to all of the statutory powers of  
27 Florida not-for-profit corporations, the corporation shall  
28 have the power and duty to:

29 (a) Perform analyses of opportunities to Florida  
30 businesses from the formation of stronger and numerous  
31 commercial relationships through cross-border transactions;

1           (b) Locate Florida businesses which are strong  
2 candidates for business expansion and match such businesses  
3 with joint venture or strategic alliance partners, sources of  
4 investment capital, or purchasers or licensees of technology;

5           (c) Prepare selected Florida firms to achieve business  
6 expansion through preparation of business plans and marketing  
7 materials, arranging participation in major domestic and  
8 international events targeted towards industry participants  
9 and investors, and placement of articles in business press and  
10 trade publications;

11           (d) Counsel Florida businesses in the development and  
12 execution of cross-border transactions;

13           (e) Develop, in conjunction with target businesses,  
14 criteria for evaluation of potential cross-border transactions  
15 or strategic partners;

16           (f) Provide listings of strategic partners which meet  
17 agreed-upon criteria;

18           (g) Develop negotiating strategies and marketing  
19 materials designed to address the concerns of potential  
20 strategic partners;

21           (h) Approach and initiate discussions with potential  
22 strategic partners and investors;

23           (i) Present Florida small and medium-sized firms to  
24 potential strategic partners and investors;

25           (j) Identify and, in conjunction with associated  
26 professionals, provide guidance on critical business and legal  
27 issues associated with proposed transactions, including issues  
28 relating to transfers of assets, ownership of intellectual  
29 property, tax planning, and other relevant matters;

30           (k) Assist in the negotiation of pricing and terms of  
31 participation of the parties;

1           (l) Close cross-border transactions on behalf of  
2 Florida small and medium-sized firms, and manage outside  
3 professionals in the closing of the transaction;

4           (m) Handle issues that arise after closing to ensure  
5 continued success of the transaction; and

6           (n) Charge fees, in amounts to be determined by the  
7 board, to defray the operating costs of its programs.

8           (2) On or before December 31, 1998, the corporation  
9 shall submit to the Office of Tourism, Trade, and Economic  
10 Development a business plan providing further specifics of its  
11 operations, including, but not limited to, the following:

12           (a) A detailed operating budget;

13           (b) Specific goals and outcomes to be achieved by the  
14 corporation in the accomplishment of its statutory duties;

15           (c) Types of specific assistance to be rendered to  
16 Florida businesses, including detailed descriptions of the  
17 specific steps required to provide each type of assistance,  
18 and the projected costs of such assistance; and

19           (d) Specific provisions for the self-sufficient  
20 operation of the corporation prior to July 1, 2001, including  
21 specific projections of the compensation anticipated from  
22 generation of successful cross-border transactions.

23           (e) A description of the manner in which the  
24 corporation will interact with existing state-sponsored  
25 economic development entities.

26           (3) The business plan and the data upon which it is  
27 based shall constitute a public record and shall be  
28 distributed in a manner which will provide maximum benefit to  
29 Florida businesses.

30           (4) Prior to December 1 of each year, the corporation  
31 shall submit to the Governor, the President of the Senate, and

1 the Speaker of the House of Representatives, a complete and  
2 detailed report including, but not limited to:

3 (a) The report required in s. 288.9536.

4 (b) The operations and accomplishments of the  
5 corporation, including the number of businesses assisted by  
6 the corporation.

7 (c) Its assets and liabilities at the end of its most  
8 recent fiscal year, including a description of its outstanding  
9 cross-border transactions.

10 Section 32. Section 288.9532, Florida Statutes, is  
11 created to read:

12 288.9532 Board of directors.--

13 (1) The corporation shall have an initial board of  
14 directors consisting of the following persons:

15 (a) The President of Enterprise Florida, Inc., or his  
16 designee, who shall serve as the chair of the corporation;

17 (b) The Comptroller or designee;

18 (c) The Commissioner of Insurance or designee;

19 (d) The chair of the Florida Black Business Investment  
20 Board or designee;

21 (e) The chair of the Florida Export Finance  
22 Corporation or designee; and

23 (f) The chair of the Florida First Capital Finance  
24 corporation or designee.

25 (2) Notwithstanding the provisions of subsection (1),  
26 the board of directors may by resolution appoint to the board  
27 up to ten at-large members from the private sector, each of  
28 whom shall serve a 2-year term. Minority and gender  
29 representation shall be considered when making at-large  
30 appointments to the board. At-large members shall have the  
31 powers and duties of other members of the board. An at-large

1 member is eligible for reappointment, but may not vote on his  
2 or her own reappointment.

3 (3) The board shall ensure that its composition is  
4 reflective of the diversity of Florida's business community,  
5 and to the greatest degree possible shall include, but not be  
6 limited to, individuals representing small and medium-sized  
7 businesses, minority businesses, universities and other  
8 institutions of higher education, and international and  
9 domestic economic development organizations. A majority of  
10 at-large members of the board shall have significant  
11 experience in international business, with expertise in the  
12 areas of trade, transportation, finance, law, or  
13 manufacturing.

14 (4) Members of the board of directors shall serve  
15 without compensation, but members, the president, and staff  
16 may be reimbursed for all reasonable, necessary, and actual  
17 expenses, as determined by the board of directors.

18 (5) A majority of currently serving members of the  
19 board shall constitute a quorum for purposes of all business  
20 of the board.

21 Section 33. Section 288.9533, Florida Statutes, is  
22 created to read:

23 288.9533 Powers and Duties of the Board of  
24 Directors.--The board shall:

25 (1) Prior to the expenditure of funds from the Florida  
26 Business Expansion account, adopt bylaws and internal  
27 procedures which are necessary to carry out the  
28 responsibilities of the corporation. The articles and bylaws  
29 of the corporation shall be reviewed and approved by the  
30 Office of Tourism, Trade, and Economic Development prior to  
31 final adoption by the board;

1           (2) Hold regularly scheduled meetings, at least  
2 quarterly, in order to carry out the objectives and duties of  
3 the board;

4           (3) Develop a streamlined application and review  
5 process;

6           (4) Adopt rules and policies, including application  
7 and award criteria, regarding eligibility of businesses to  
8 receive assistance from the corporation. Such rules and  
9 policies shall include, but not be limited to, the  
10 requirements that the target businesses:

11           (a) Shall have substantial operations in Florida;

12           (b) Shall have products, business or technology in  
13 existence at the time of application;

14           (c) Shall have proven management;

15           (d) Shall be in a stage of business which is favorable  
16 to expansion of the business into international markets;

17           (e) Shall have products or technologies which have a  
18 substantial potential for beneficial effect on business  
19 expansion, business revenue or employment in Florida; and

20           (f) Shall have products or technologies which are  
21 potential technology or market leaders with substantial  
22 commercial potential in international markets.

23           (g) Shall not have engaged in any cross-border  
24 transactions prior to receipt of assistance from the  
25 corporation. Assistance from the corporation shall only be  
26 extended to targeted businesses when no conventional source of  
27 assistance is available for the business from public or  
28 private sources.

29           (5) Proposed awards of assistance shall be reviewed  
30 and approved at meetings of the board. The board shall give  
31 the highest priority to activities that offer the greatest

1 opportunity for economic development impact and cost recovery.  
2 A business, including any affiliated corporations of such  
3 business, that has received any contractual assistance from  
4 the private sector entity selected pursuant to s. 288.9534, is  
5 not eligible to receive assistance from the corporation.

6 Section 34. Chapter 288.9534, Florida Statutes, is  
7 created to read:

8 288.9534 Management of the Corporation.--

9 (1) The activities of the corporation shall be  
10 administered under a contract with a private sector entity  
11 selected by the board no later than September 1, 1998. Such  
12 company shall have responsibility for performance of all  
13 statutory duties of the corporation, under the control and  
14 supervision of the board. Potential management companies  
15 shall:

16 (a) Have existing operations in Florida, and provide  
17 Florida-resident personnel to perform services under the  
18 contract;

19 (b) Have an established record of success in the  
20 creation of cross-border transactions, and at least ten years  
21 of operational experience in such business;

22 (c) Have staff with substantial financial and  
23 international affairs experience;

24 (d) Have international offices;

25 (e) Commit to a cash match expenditure of ten percent  
26 of the amount of the state contract issued pursuant to this  
27 section, with such cash to be provided from the capital of the  
28 contractor and expended directly in the pursuit of the  
29 statutory purposes of the corporation; and

30 (f) Have substantial experience in as many of the  
31 following areas as possible:



- 1           1. Arrangement of cross-border transactions;  
2           2. Development and implementation of market entry  
3 strategies for business expansion;  
4           3. Preparation of market analyses and strategic plans;  
5 and  
6           4. Work with foreign and domestic financial  
7 institutions, highly regulated industries and foreign  
8 governments.  
9           (2) The company selected pursuant to this subsection  
10 shall provide personnel to serve as officers of the  
11 corporation who shall perform on behalf of the corporation all  
12 of the customary functions of the offices they occupy.  
13           (3) The board shall provide by contract for division  
14 with the management company of total compensation derived from  
15 the operations of the corporation. Such division shall be made  
16 quarterly, and shall involve the total compensation of the  
17 corporation which are in excess of the expenses of the  
18 corporation for that quarter.  
19           (4) Prior to securing management services for the  
20 corporation, staffing of the corporation shall be provided by  
21 the Office of Tourism, Trade, and Economic Development, which  
22 shall provide to the board by August 7, 1998, a list of  
23 candidates qualified and desiring to perform the duties of the  
24 management company specified in this section. The Office of  
25 Tourism, Trade, and Economic Development shall also have  
26 responsibility for the establishment of performance measures  
27 and requirements which provide for the performance of the  
28 statutory duties of the corporation, as well as the following:  
29           (a) Specific outcomes from the performance of the  
30 management company, as well as timetables for the  
31 accomplishment of such outcomes;

1           (b) Requirements relating to the handling of state  
2 funds and providing for third party audit and financial review  
3 of the operations of the corporation;

4           (c) Reversion to the state of all assets of the  
5 corporation in the event of cessation of operations of the  
6 corporation; and

7           (d) Termination of the management company in the event  
8 of its failure to perform the duties or deliver the outcomes  
9 provided in the management contract.

10           Section 35. Section 288.9535, Florida Statutes, is  
11 created to read:

12           288.9535 Florida Business Expansion Account.--

13           (1) The board shall create the Florida Business  
14 Expansion account for the purpose of receiving state, federal,  
15 and private financial resources, and the return from  
16 employment of those resources, and for the purposes of the  
17 corporation. The account shall be under the exclusive control  
18 of the board.

19           (2) Resources in the account shall be allocated for  
20 operating expenses of the corporation and for other  
21 statutorily authorized purposes, including costs of research,  
22 provision of business assistance to targeted businesses, and  
23 other costs.

24           (3) Appropriations for the corporation shall be  
25 deposited into the account.

26           (4) The board may establish the account and any  
27 sub-accounts necessary and convenient for the operation of the  
28 corporation with state or federally chartered financial  
29 institutions in this state and may invest the assets of the  
30 account in permissible securities.

31           (5) At all times, the board shall attempt to maximize

1 the returns on funds in the account.

2 (6) All revenues received from the operations of the  
3 corporation shall be redeposited in the account to be used to  
4 promote the statutory purposes of the corporation.

5 (7) Under no circumstances shall the credit of the  
6 state be pledged by or on behalf of the corporation, nor shall  
7 the state be liable or obligated in any way for claims on the  
8 account or against the corporation.

9 Section 36. Section 288.9536, Florida Statutes, is  
10 created to read:

11 288.9536 Reporting and Review.--

12 (1) By September 1, 1999, the corporation in  
13 cooperation with the Office of Program Policy Analysis and  
14 Government Accountability shall develop a research design,  
15 including goals and measurable objectives for the corporation,  
16 which will provide the Legislature with a quantitative  
17 evaluation of the corporation. The corporation shall utilize  
18 the monitoring mechanisms and reports developed in the designs  
19 and provide these reports to the Governor, the President of  
20 the Senate, the Speaker of the House of Representatives, and  
21 the Office of Program Policy Analysis and Government  
22 Accountability.

23 (2) On January 31, 2000, and on January 31 of each  
24 succeeding year, the corporation shall prepare a report on the  
25 financial status of the corporation and the account and shall  
26 submit a copy of the report to the Governor, the President of  
27 the Senate, the Speaker of the House of Representatives, and  
28 the President of Enterprise Florida, Inc. The report shall  
29 specify the assets and liabilities of the account within the  
30 current fiscal year and shall include a list of the businesses  
31 assisted, the benefits obtained by each business assisted,

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1 including, but not limited to, increased revenues, cost  
2 reductions, sales or investment which have been realized by  
3 such businesses.

4 (3) Prior to the 2001 regular session of the  
5 Legislature, the Office of Program Policy Analysis and  
6 Government Accountability shall perform a review and  
7 evaluation of the corporation using the research design  
8 promulgated pursuant to this section. The report shall review  
9 and comment on the operations and accomplishments of the  
10 corporation. A report of the findings and recommendations of  
11 the Office of Program Policy Analysis and Government  
12 Accountability shall be submitted to the President of the  
13 Senate and the Speaker of the House of Representatives prior  
14 to the 2001 regular session.

15 Section 37. The sum of \$1.5 million is hereby  
16 appropriated from the General Revenue Fund to the Florida  
17 Business Expansion Corporation. Ninety percent of such funds  
18 must be used to provide assistance to eligible businesses  
19 pursuant to s. 288.9533.

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22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 109, line 1, of the amendment  
25  
26 after "archive" insert:  
27 creating s. 288.9530, F.S.; providing for the  
28 creation of the Florida Business Expansion  
29 Corporation to provide business expansion  
30 assistance to businesses in the state having  
31 job growth or emerging technology potential;

1           creating s. 288.9531, F.S.; providing for  
2           powers and duties of the corporation; creating  
3           s. 288.9532, F.S., and s. 288.9533, F.S.;  
4           creating the corporation board of directors and  
5           providing for their powers and duties; creating  
6           s. 288.9534, F.S.; providing that the  
7           corporation contracts with an experienced  
8           management company to administer and perform  
9           the duties of the corporation; creating s.  
10          288.9535, F.S.; creating the Florida Business  
11          Expansion Account to receive state, federal,  
12          and private financial resources for the purpose  
13          of funding the objectives of the corporation;  
14          creating s. 288.9536, F.S.; providing for the  
15          reporting and review requirements of the  
16          corporation; providing appropriations;

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