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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 10, 1998 Revised: \_\_\_\_\_

Subject: International Economic Development

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Givens</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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### I. Summary:

The committee substitute contains the following provisions:

- Requires Enterprise Florida, Inc., to develop a master plan for coordinating international trade resources; a strategic plan which allows Florida to capitalize on the economic opportunities associated with a post-embargo Cuba; and in conjunction with the Office of Tourism, Trade, and Economic Development (OTTED), a plan to promote foreign direct investment in Florida.
- Requires that foreign judgments be filed with the Secretary of State's office in addition to other entities.
- Creates the Florida International Archive within the Department of State.
- Provides for the annual reporting of activities and accomplishments by Florida's foreign trade offices.
- Creates the Florida Business Expansion Corporation to provide business expansion assistance to businesses in this state.
- Permits linkage institutes to apply for Targeted Market Pilot Project grants.
- Creates the Timeshare Commissioner of Deeds.

This committee substitute amends sections 14.2015, 15.18, 55.604, 55.605, 288.012, and creates sections 257.34, 288.9530, 288.9531, 288.9532, 288.9533, 288.9534, 288.9535, 288.9536, 721.96, 721.97, and 721.98 of the Florida Statutes.

## **II. Present Situation:**

### **Trade Linkages**

Information is one of the key components for successful international business transactions. Companies depend on the availability of timely and reliable information about conditions and trends in foreign markets, overseas opportunities and competitors, and a variety of other factors ranging from foreign product standards and labeling requirements to information about exchange rates and payment options. In international business, where geographical and cultural barriers increase the level of uncertainty that companies normally face, reliable information becomes even more important as a way to reduce uncertainty and support effective decision-making.

A number of organizations are involved with providing information and assistance to current or potential exporters in Florida. These organizations include Enterprise Florida, Inc., the U.S. Department of Commerce, U.S. overseas embassies and consulates, foreign-based American chambers of commerce, Florida's foreign offices, the Florida Trade Data Center, the World Trade Centers, regional and local economic development organizations, and specialized consulting firms.

### **Foreign Direct Investment**

Attraction of foreign direct investment is one of the key areas of competition in the international economy. Foreign direct investment is defined as a long-term investment in the state by an overseas company, with that company holding a significant degree of management influence. The ability to attract foreign direct investment is an important determinant and measure of Florida's international competitiveness because foreign direct investment brings new capital, new technology, new jobs, and new wealth to the state. It also increases the flow of goods and services while strengthening Florida's position as a crossroads economy in terms of trade.

### **Post-Embargo Cuba**

Events in the Soviet Union and eastern Europe, and recent movements toward democracy throughout Latin America have led to considerable public speculation about the possibility of political change in Cuba. Political change in Cuba and the opening of the Cuban market would have a direct impact on Florida's international trade. The change in Cuba would offer both opportunities and challenges in the short, medium, and long term. Florida could enter into an era of unprecedented prosperity as a center for Latin American trade. A peaceful, political change in Cuba would bring an immediate surge in the purchase of consumer goods and services by Florida's Cuban Americans wishing to aid their friends and relatives in Cuba and would signal the opening of the Cuban market to Florida firms.

For planning purposes, the state should be prepared for the eventual lifting of the U.S. embargo and the removal of constraints on travel by U.S. citizens to Cuba. These events will herald a major economic opportunity for Florida's economy. However, a failure to adequately plan for these

opportunities may result in the development of competitive forces outside Florida who will aggressively pursue these new economic and business developments.

Section 288.012, F.S., provides for the Office of Tourism, Trade, and Economic Development to establish and operate offices in foreign countries for the purpose of promoting the trade and economic development of the state. In addition, the Office of Tourism, Trade, and Economic Development is authorized to enter into agreements with governmental and private sector entities to establish and operate offices in foreign countries.

### **Office of Tourism, Trade and Economic Development**

Section 14.2015, F.S., establishes the creation of the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor with the director of OTTED appointed by and serving at the pleasure of the Governor. The purpose of OTTED is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish its purpose, OTTED shall do, but not be limited to doing, the following:

- Contract with direct-support organizations;
- Monitor the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs;
- Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development projects designed to create, expand, and retain Florida businesses, and to recruit worldwide business; and
- Administer the Florida Enterprise Zone Act, the community contribution tax credit program, the tax refund program for qualified target industry businesses, contracts for transportation projects, and the Targeted Market Pilot Grant Program.

### **Foreign Money Judgments**

Chapter 15, F. S., provides for the powers, duties, and responsibilities of the Office of the Secretary of State. Section 15.18, F.S., provides for the Secretary's duties as they pertain to international and cultural relations. This section establishes the Secretary as "Florida's Chief Cultural Officer," being the head administrator of the divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State which promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State is encouraged to initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary shall also coordinate international activities pursuant to this section with the Florida International Affairs Commission (which no longer exists).

Section 55.604, F.S., provides for the recognition and enforcement of foreign judgments in that they are conclusive between parties to the extent that the judgments grant or deny recovery of a sum of money. The foreign judgment shall be filed with the clerk of the court and recorded in the public records in the county or counties where enforcement is sought. When recording the foreign judgment and the affidavit, the clerk shall mail notice of the recording to the judgment debtor. The judgment debtor has 30 days after service of the notice to file a notice of objection with the clerk of the court specifying the grounds for nonrecognition or nonenforceability. When entering the order recognizing the foreign judgment, or when recording the clerk's certificate, the foreign judgment shall be enforced in the same manner as the judgment of a court of this state. Once the order recognizing the foreign judgment has been entered by a court of this state, the order and a copy of the judgment may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

Section 55.605, F.S., provides for grounds for nonrecognition of foreign judgments in that a judgment is not conclusive if:

- The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- The foreign court did not have personal jurisdiction over the defendant; and
- The foreign court did not have jurisdiction over the subject matter.

In addition, a foreign judgment need not be recognized if:

- The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend;
- The judgment was obtained by fraud;
- The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state;
- The judgment conflicts with another final and conclusive order;
- The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;
- In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action; and
- The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.

### **Florida State Archive and Repository**

Section 257.35, F.S, provides for the creation, within the Division of Library and Information Services of the Department of State, of the Florida State Archive and Repository for the preservation of those public records as defined in s. 119.011(1), F.S., including manuscripts, and other archival material that have historical or other value that warrants their continued preservation and have been accepted by the division for deposit in its custody.

Any agency is authorized and empowered to turn over to the division any record no longer in current official use. The division is empowered to direct and effect the transfer to the archives of any records that are determined by the division to have historical or other value to warrant their continued preservation or protection.

The division is required to make certified copies upon the application of any person and may charge a fee for this service based upon the cost of the service. The division may also establish and maintain a schedule of fees for services which shall include, but not be limited to, restoration of archival materials, special research services, and publications.

### **Foreign Offices**

Florida currently maintains 20 foreign offices, 18 of which are on foreign soil. Enterprise Florida, Inc. (EFI), operates eight of the offices located abroad and one in Coral Gables. The Florida Department of Citrus has five offices, and the Florida Tourism Industry Marketing Corporation (FTIMC) maintains five offices abroad and an office in Coral Gables. That Florida has 20 foreign offices does not mean that there are 20 different locations. The FTIMC offices in London, Toronto, Frankfurt, and Tokyo are co-located with EFI foreign offices. The Coral Gables offices of EFI and FTIMC, which are not co-located, are classified as “foreign offices” because they perform international trade and tourism functions. The following is a synopsis of the foreign offices operated by EFI:

### **Enterprise Florida’s Foreign Offices**

<u>Country</u>	<u>City</u>	<u>Year Opened</u>
Japan	Tokyo	1991
United Kingdom	London	1991
Brazil	Sao Paulo	1991
Canada	Toronto	1991
Korea	Seoul	1991
Germany	Frankfurt	1991
Taiwan	Taipei	1992
Mexico	Mexico City	1993

The Office, of Tourism, Trade, and Economic Development (OTTED) was commissioned to evaluate the location of Florida’s foreign offices and make recommendations for future offices. According to OTTED’s research, a comparison of Florida’s current foreign office placement with existing volumes of trade, tourism and investment suggests that the state’s present array of locations is quite reasonable. However, the analysis also suggests that some of these offices need to be strengthened, and that the state should give serious consideration to establishing a presence in a number of additional markets.

The OTTED report also noted that “the absence of reliable, output-oriented information” relative to the operations of Florida’s foreign offices made it impossible for OTTED to judge the efficacy

of any single office or of foreign offices in general. Therefore, OTTED's recommendations did not include a recommendation of office placement based on past office performance.

### **Linkage Institutes**

Section 288.175, F.S., creates within the Department of Education, Florida linkage institutes. A primary purpose of these institutes is to assist in the development of stronger economic and social ties between this state and strategic foreign countries through the promotion of expanded public and private dialogue on cooperative research and technical assistance activities, increased bilateral commerce, student and faculty exchange, cultural exchange, and the enhancement of language training skills between the postsecondary institutions in this state and those of selected foreign countries. To date there are eleven institutes:

- Florida-Brazil Institute (University of Florida and Miami-Dade Community College).
- Florida-Costa Rica Institute (Florida State University and Valencia Community College).
- Florida Caribbean Institute (Florida International University and Daytona Beach Community College).
- Florida-Canada Institute (University of Central Florida and Palm Beach Junior College).
- Florida-China Institute (University of West Florida, University of South Florida, and Brevard Community College).
- Florida-Japan Institute (University of South Florida, University of West Florida, and St. Petersburg Community College).
- Florida-France Institute (New College of the University of South Florida, Miami-Dade Community College, and Florida State University).
- Florida-Israel Institute (Florida Atlantic University and Broward Community College).
- Florida-West Africa Institute (Florida Agricultural and Mechanical University, University of North Florida, and Florida Community College at Jacksonville).
- Florida-Eastern Europe Institute (University of Central Florida and Lake Sumter Community College).
- Florida-Mexico Institute (Florida International University and Polk Community College).

### **Cross-Border Transactions**

Section 288.9515, F.S., provides for the authorization of programs of the Technology Development Board within the structure of Enterprise Florida and creates a technology development financing fund called the Florida Technology Research Investment Fund. The fund is designed to increase technology development in this state by investing in technology development projects that have the potential to generate investment grade technologies of importance to the state's economy as evidenced by the willingness of private businesses to coinvest in such projects. The board may demonstrate and develop effective approaches to, and benefits of, commercially oriented research collaborations between businesses, universities, and state and federal agencies and organizations. The board shall endeavor to maintain the fund as a self-supporting fund once the fund is sufficiently capitalized as reflected in the minimum funding report required in s. 288.9516, F.S., relating to the annual report of the Technology Development Board. The board

shall also invest moneys contained in the Florida Technology Research Investment Fund in technology application research or for technology development projects that have the potential for commercial market application. In addition, the board may create technology commercialization programs in partnership with private enterprises, educational institutions, and other institutions to increase the rate at which technologies with potential commercial application are moved from university, public, and industry laboratories into the marketplace.

Section 288.9611, F.S., provides for the creation of the Capital Development Board within the structure of Enterprise Florida, Inc., for the purposes of creating a Florida economy characterized by better employment opportunities leading to higher wages by building access to financial markets for firms critical to this mission. The board is to be comprised of members from the private and public sectors of Florida and shall use leadership, investment, and changes in public policy in formulating recommendations to ensure access to the most appropriate forms of finance for such firms on a scale sufficient to achieve the purpose of this board.

Section 288.9613, F.S., provides that the Capital Development Board shall have all the powers and authority, not explicitly prohibited by statute, necessary to carry out the purposes of this act, as well as the functions, duties, and responsibilities of the board, including, but not limited to, the following:

- Advise and assist in the formulation and coordination of the state's economic development policy regarding capital availability for the formation, growth, and development of firms critical to achieve the purposes of the Capital Development Board which are consistent with the policies of the board of directors of Enterprise Florida, Inc.;
- Use a corporate seal;
- Advise and assist in the state's capital availability development plan and subsequent implementation as part of the strategic economic development plan of Enterprise Florida, Inc.;
- Evaluate the performance and effectiveness of Florida's capital availability programs;
- Report to the board of directors of Enterprise Florida, Inc., regarding its functions, duties, recommendations, and responsibilities;
- Solicit, borrow, accept, receive, and invest funds from any public or private source;
- Contract with public and private entities as necessary to further the directives of the board, except that any contract made with an organization represented on the nominating council or on the board of directors must be approved by a two-thirds vote of the entire board of directors, and the board member representing such organization shall abstain from voting. No more than 65 percent of the dollar value of all contracts or other agreements entered into in any fiscal year, exclusive of grant programs, shall be made with an organization represented on the nominating council or the board of directors. An organization represented on the board or on the nominating council may not enter into a contract to receive a state-funded economic development incentive or similar grant, unless such incentive award is specifically endorsed by a two-thirds vote of the entire board. The board member representing such organization, if applicable, shall abstain from voting and refrain from discussing the issue with

other members of the board. No more than 50 percent of the dollar value of grants issued by the board in any fiscal year may go to businesses associated with board members;

- Carry forward any unexpended state appropriations into succeeding fiscal years,
- Provide an annual report by November 1 of each year to the board of directors of Enterprise Florida Inc.; and
- Annually review and prepare a report showing how and at what level other state governments support the availability of capital for businesses essential to economic growth and development. The board shall recommend appropriate levels of support from Florida State Government, the Federal Government, and private enterprise which will enhance the access of Florida businesses to capital which is competitive with those of other states. The findings and recommendations of the board shall be submitted to Enterprise Florida, Inc.

Section 288.773, F.S., creates the Florida Export Finance Corporation as a nonprofit corporation to expand employment and income opportunities for residents of this state through increased exports of goods and services. The corporation shall provide businesses domiciled in this state information and technical assistance on export opportunities, exporting techniques, and financial assistance through guarantees and direct loan originations for sale in support of export transactions. The corporation has the authority to carry out the following:

- Coordinate the efforts of the corporation with programs and goals of the United States Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, Enterprise Florida, Inc., and its boards, and other private and public programs and organizations, domestic and foreign, designed to provide export assistance and export-related financing;
- To establish a network of contacts among those domestic and foreign public and private organizations which provide information, technical assistance, and financial support of exporting;
- To assemble, publish, and disseminate information on export opportunities, techniques of exporting, sources of public and private export assistance, and sources of export-related financing;
- To organize, host, and participate in seminars and other forums designed to disseminate information and technical assistance on exporting and export-related financing; and
- To insure, coinsure, lend, and guarantee loans, and to originate for sale direct export-related loans, extended to small and medium-sized businesses in this state pursuant to criteria, bylaws, rules, and policies adopted by the board.

As part of the Enterprise Florida package, the Legislature in ch. 93-187, L.O.F., authorized the creation of the Florida Development Finance Corporation (FDFC), which is designed to function as a market-driven development bank providing plant-and-equipment financing for small and middle-sized Florida manufacturers. For the creation of a capital base, s. 288.9606, F.S., authorizes the corporation, working with public agencies, to issue revenue bonds. Under s. 288.9607, F.S., the bonds may be guaranteed, with limitations and after other guarantee sources are exhausted, by earnings accrued on the investment of the minimum balance required to be maintained in the State Transportation Trust Fund. The statute requires the FDFC to seek



Supreme Court validation of the first bond issuance under the program, addressing in particular the constitutionality of using the trust fund investment earnings as a guarantee of the bonds, and such Supreme Court approval was secured in 1995. Further revisions to the program were made in 1996, in order to enable the FDFC to use additional obligations and revenue sources to guarantee bonds, and to enable the FDFC to offer pooled bond programs.

In November 1996, the FDFC began taking applications for its first pooled industrial development bond issue. In announcing the start of the "Enterprise Bonds" program, EFI said it planned to offer loans ranging from \$500,000 to \$15 million, and it anticipated that the average loan would be approximately \$1 million. As of early September 1997, approximately \$3.2 million in bonds had been sold to the public, financing the first three borrowers, who were manufacturers in Longwood, Daytona Beach, and Jacksonville. According to EFI, the bonding capacity of the FDFC is affected by the amount of annual earnings on the investment of the minimum balance required to be maintained in the State Transportation Trust Fund, because such earnings serve as a guarantee under the program. The agreement entered into between the FDFC and the Department of Transportation provides that up to \$4 million of such investment earnings in a fiscal year may be accessed by the FDFC to make bond payments in the event of a default. EFI states that it was originally envisioned that \$4 million annually would support approximately \$40 million of investment grade bond issues. EFI notes that, because earnings on the investment of the minimum balance in the trust fund have averaged \$2.5 million per year, Standard and Poor's sets the FDFC's bond capacity at \$15 million.

### **Commissioner of Deeds**

During the 1997 Legislative Session, ch. 118, F.S., relating to Commissioner of Deeds was repealed (CS/SB 1754).

Section 118.01, F.S., authorized the Governor to name, appoint, and commission one or more commissioners in each of the states and territories of the United States, the District of Columbia, and in any foreign country. These commissioners continued in office for 4 years, and had the authority to take the acknowledgment and proof of the execution of any deed, mortgage, or other conveyance of any lands, tenements, or hereditaments lying or being in this state, and any contract, letter or attorney, or any other writing under seal to be used or recorded in this state.

Section 118.02, F.S., provided that every commissioner appointed by virtue of ch. 118, F.S., could administer an oath to any person who would be willing and desirous to make such oath before him or her, and that the affidavit made before such commissioner would be as good and effectual to all intents and purposes as if taken by any proper officer of this state.

Section 118.03, F.S., provided that every commissioner must have taken and subscribed an oath of office before a notary public in the city or county in which the commissioner resided. The oath would then have been filed with the office of the Department of State.

Section 188.04, F.S., provided that any and all official acts done by any commissioner of deeds whose commission was more than 4 years old were declared valid.

### **International and Cultural Relations**

Section 15.18, F.S., provides that the Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, is known as “Florida’s Chief Cultural Officer.” The Secretary of State is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities as they relate to international and cultural relations with the Florida International Affairs Commission. To accomplish these purposes, the Secretary has the power and authority to do the following:

- Disseminate any information pertaining to the State of Florida which promotes the state’s cultural assets;
- Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries;
- Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups;
- Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida;
- Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of expanding international and cultural relations;
- Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section; and
- Promulgate rules for entering into contracts which are primarily for promotional services and events, which may include commodities involving a service.

### **III. Effect of Proposed Changes:**

#### **Trade Linkages**

The committee substitute requires Enterprise Florida, Inc., to develop a master plan for integrating existing public and private-sector international trade and reverse investment resources, in order for businesses to obtain comprehensive assistance and information in the most productive and efficient manner. The plan must include resources of trade information, such as trade leads and reverse investment opportunities; trade counseling; and trade financing services. Enterprise Florida, Inc., is required to solicit the participation and input of organizations providing such resources and may include recommendations for legislative action designed to enhance the delivery of international trade assistance. The master plan, which may be included within the

annual update or modification to the strategic plan required under s. 288.905, F.S., must be submitted to the Legislature and the Governor before January 1, 1999.

### **Foreign Direct Investment**

The committee substitute requires Enterprise Florida, Inc., in conjunction with the Office of Tourism, Trade and Economic Development, to prepare a plan for promoting direct investment in Florida by foreign businesses. The plan must assess and inventory Florida's strengths as a location for foreign direct investment and must include a detailed strategy for capitalizing upon those strengths. In developing the plan, Enterprise Florida, Inc., must focus on businesses with site-selection criteria that are consistent with Florida's business climate, businesses likely to facilitate the transshipment of goods through Florida or to export Florida-produced goods from the state, and businesses that complement or correspond to those industries identified as part of the sector-strategy approach to economic development required under s. 288.905, F.S. Additionally, the plan must identify weaknesses in Florida's ability to attract foreign direct investment and must include a detailed strategy for addressing those weaknesses. The plan may include recommendations for legislative action designed to enhance Florida's ability to attract foreign direct investment. Enterprise Florida, Inc., must solicit the participation and input of entities with expertise and experience in foreign direct investment in the development of the plan. The plan, which Enterprise Florida, Inc., may include within the annual update or modification to the strategic plan required under s. 288.905, F. S., must be submitted to the Legislature and the Governor before January 1, 1999.

### **Post-Embargo Cuba**

The committee substitute requires Enterprise Florida, Inc., to prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with a post-embargo Cuba. The plan should recognize the historical and cultural ties between this state and Cuba and should focus on building a long-term economic relationship between these communities. The plan may include recommendations for legislative action necessary to implement the strategic plan. The strategic plan must be submitted to the Legislature and the Governor before January 1, 1999.

### **The Office of Tourism, Trade, and Economic Development**

The committee substitute amends s. 14.2015, F.S., to provide that OTTED shall ensure the prompt disbursement of funds when responsible for the disbursement of such funds. When such funds have not been disbursed on or before legislatively or contractually prescribed disbursement dates, or within 30 of the beginning of the fiscal year, OTTED shall notify the Legislature of the fact along with a brief description of the reasons for the delay in disbursement. At the end of each succeeding 30-day period that funds remain undisbursed, OTTED shall provide a supplemental report with a brief description of the reason for the continued delay.

### **International and Cultural Relations**

The committee substitute amends s. 15.18, F.S., by deleting an obsolete reference to the Florida International Affairs Commission while providing coordination of international and cultural activities with the Department of State, Enterprise Florida, Inc., and any other organization the secretary deems appropriate. The section is further amended to require the Secretary of State to establish and maintain the list prescribed in s. 55.605(2)(g), F.S., relating to recognition of foreign money judgments.

### **Foreign Money Judgments**

The committee substitute amends s. 55.604, F.S., to include the Department of State with those entities where foreign judgments are required to be filed.

The committee substitute amends s. 55.605(2)(g), F.S., requiring the Secretary of State to establish and maintain a list of foreign jurisdictions where judgments rendered in Florida would not be given similar recognition with judgments rendered in the jurisdiction.

### **Florida State International Archive and Repository**

The committee substitute creates s. 257.34, F.S., creating the Florida State International Archive and Repository within the Division of Library and Information Services of the Department of State for the purpose of preserving those public records, manuscripts, international judgments involving disputes between domestic and foreign businesses, and all other public matters the department or the Florida Council of International Relations deems relevant to international issues. The division shall:

- Organize and administer the archive.
- Preserve and administer such records as shall be transferred to its custody; accept, arrange and preserve them, according to approved archival and repository practices; and permit them, at reasonable times and under the supervision of the division, to be inspected, examined, and copied. All records are subject to the public records provisions of s. 119.079(1), F.S.
- Assist the records and information management program in the determination of retention values for records.
- Provide a public research room.
- Conduct, promote, and encourage research in international trade, government, and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.
- Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects designed to promote international related issues and preserve original materials relating to international issues.
- Assist and cooperate with the records and information management program in the training and information program in s. 257.36(1)(g), F.S.

Any agency is authorized to turn over to the division any record no longer in current official use. The division is empowered to direct the transfer to the archives of any records that are determined by the division to have historical or other value to warrant their continued preservation. Title to any record that is transferred to the archive shall be vested in the division. The division shall make copies upon request to the public and may charge a fee for this service. The division may establish a schedule of fees for services which shall include, but not be limited to, restoration of materials, storage of materials, special research services, and publications. The division shall establish and maintain a mechanism by which the information contained within the archive may be accessed by computer via the World Wide Web. In doing so, the division shall take whatever measures it deems appropriate to insure the validity, quality, and safety of the information being accessed. The Florida Council of International Development may select materials for inclusion in the archive and shall be consulted by the division in all matters relating to its establishment and maintenance. The division shall promulgate rules as are necessary to implement the provisions of the section.

### **Foreign Offices**

The committee substitute amends s. 288.012, F.S., to require each foreign office to submit to the Office of Tourism, Trade, and Economic Development, by October 1 of each year, a complete and detailed report on its activities and accomplishments during the preceding fiscal year. The report must contain information on:

- The number of Florida companies assisted;
- The number of inquiries received about investment opportunities in Florida;
- The number of trade leads generated;
- The number of investment projects announced;
- The estimated U.S. dollar value of sales confirmations;
- The number of representation agreements;
- The number of company consultations;
- Barriers or other issues affecting the effective operation of the office;
- Changes planned in the current fiscal year to office operations;
- Marketing activities conducted;
- Strategic alliances formed with organizations in the country in which the office is located;
- Activities conducted with other Florida foreign offices; and
- Any other information the office believes would contribute to an understanding of its activities.

### **Linkage Institutes**

The committee substitute amends s. 288.8175, F.S., allowing the Florida Linkage Institutes to apply on a competitive basis to OTTED for Targeted Market Pilot Project Grants as defined in s. 14.5015, F.S., designed to improve short- and long-term international business opportunities for Florida businesses.

### **Cross-Border Transactions**

The committee substitute creates s. 288.9530, F.S., to provide for the creation of the Florida Business Expansion Corporation (the corporation) as a non-profit entity organized on a non-stock basis. The corporation shall provide business expansion assistance to businesses in this state having job growth or emerging technology potential and fewer than 500 employees. The primary purpose of the corporation is to assist such Florida businesses grow through the development of cross-border transaction which lead to increased revenues, cost reductions, and sales or investments for Florida businesses. "Cross-border transactions" are defined as the formation of joint venture, strategic alliance, investment, technology transfer or licensing, co-development, or other commercial relationships between Florida businesses and non-Florida entities. The corporation is to seek to recover its costs and expenditures of state funds via fee, equity participation, or any other form of revenue generation or recovery, and to achieve self-sufficiency of its operations. "Self-sufficiency" means that the annual expenses of operation of the corporation shall be less than or equal to annual revenues derived from the operation of the corporation by June 30, 2001.

In addition to all statutory powers of Florida non-profit corporations, the corporation shall have the power and duty to do the following:

- Locate Florida businesses which are strong candidates for business expansion and match such businesses with joint venture or strategic alliance partners, sources of investment capital, or purchasers or licensees of technology;
- Prepare selected Florida firms to achieve business expansion through preparation of business plans and marketing materials, arranging participation in major domestic and international events targeted towards industry participants and investors, and placement of articles in business press and trade publications;
- Counsel Florida businesses in the development and executions of cross-border transactions;
- Develop, in conjunction with target businesses, criteria for evaluation of potential cross order transactions or strategic partners;
- Provide listings of strategic partners which meet agreed upon criteria;
- Develop negotiating strategies and marketing materials designed to address the concerns of potential strategic partners;
- Approach and initiate discussions with potential strategic partners and investors;
- Present Florida small and medium-sized firms to potential strategic partners and investors;
- Identify critical business and legal issues associated with proposed transactions, including issues relating to transfers of assets, ownership of intellectual property, tax planning, and other relevant matters;
- Assist in negotiating of pricing and terms of participation of the parties;
- Close cross-border transactions on behalf of Florida small and medium-sized firms, and manage outside professionals in the closing of the transaction;
- Handle issues that arise after closing to ensure continued success of the transaction; and
- Charge fees, in amounts to be determined by the board, to defray the operating costs of its programs.

The corporation shall, on or before December 31, 1998, submit to OTTED a business plan providing further specifics of its operations.

The corporation shall, on or before August 1, 1999, submit to OTTED the results of its analysis of potential benefits to Florida businesses from the formation of stronger and more numerous international and domestic commercial relationships via cross-border transactions. The analysis shall provide the following:

- The current structure of Florida high-technology, biotechnology, and aerospace industries;
- An evaluation of global market positioning of various Florida business and industrial sectors;
- Comprehensive data on cross-border opportunities for specific Florida business and industrial sectors;
- An analysis and survey of small and medium-sized businesses and academic entities with significant potential for cross-border transactions to determine their interest in expansion and requirements for doing so;
- Identification of entities capable of meeting the needs of Florida businesses identified in the study through cross-border transactions; and
- Specific measures to be taken to bring about such relationships for the benefit of the Florida economy.

The corporation shall have an initial board of five members consisting of the following:

- The President of Enterprise Florida, or his or her designee;
- The Comptroller, or his or her designee;
- The Commissioner of Insurance or his or her designee;
- The chair of the Florida Black Business Investment Board or his or her designee;
- The chair of the Florida Export Finance Corporation, or his or her designee; and
- The chair of the Florida First Capital Finance Corporation, or his or her designee.

The board may also elect up to ten additional at-large members who serve 2 year terms. Minority and gender representation shall be considered when making these at-large appointments. A majority of the current members shall constitute a quorum for purposes of all business of the board.

The management of the corporation shall be administered under a multi-year contract with a private sector entity selected by the board no later than September 1, 1998. The management company shall have responsibility for performance of all statutory duties of the corporation, under the control and supervision of the board. The potential management company shall:

- Have an established record of success in the creation of cross-border transactions, and at least 10 years of operational experience in such business;
- Have existing operation in Florida, and provide Florida-resident personnel to perform services under the contract;

- Have staff with substantial financial and international affairs experience;
- Have international offices; and
- Commit to a cash match expenditure of 10 percent of the amount of the state contract.

Prior to hiring the management company, staffing of the corporation shall be provided by OTTED, which shall provide a list of candidates who are qualified and interested in performing the duties of the management company to the board by August 7, 1998. OTTED shall be responsible for establishing performance measures and requirements which provide for the performance of the statutory duties of the corporation. OTTED shall also be responsible for requirements relating to the handling of state funds and providing for third-party audits and financial review. In addition, OTTED shall be responsible for the reversion to the state of all assets of the corporation in the event of cessation of operations of the corporation and for the termination of the management company in the event of its failure to perform the duties or deliver the outcomes provided in the management contract.

The committee substitute creates s. 288.9535, F.S., creating the Florida Business Expansion Account for the purpose of receiving state, federal, and private financial resources, the return from employment of those resources, and for the purposes of the corporation. The account shall be under the exclusive control of the board. Resources in the account shall be used for operating expenses and for other statutorily authorized purposes, including costs of research and other costs. The board may establish the account and any sub-accounts necessary and convenient for the operation of the corporation with state or federally chartered financial institutions in this state and may invest the assets of the account in permissible securities. At all times, the board shall attempt to maximize the returns on funds in the account. All revenues received from the operations of the corporation shall be redeposited in the account to be used to promote the statutory purposes of the corporation. Under no circumstances shall the credit of the state be pledged by or on behalf of the corporation, other than funds appropriated by law to the account, nor shall the state be liable or obligated in any way for claims on the account or against the corporation. Any money within the account is not subject to reversion under s. 216.301, F.S., relating to appropriations and undisbursed balances. However, OTTED shall ensure that all funds in the account shall revert to the state in the event that the corporation is dissolved, ceases operations, or upon the evaluation of the board that such services cannot be provided on a cost-recovery basis. Such a determination shall be made after the first year.

The committee substitute creates s. 288.9536, F.S., providing for the reporting and review of the corporation in that the corporation, in cooperation with the Office of Program Policy Analysis and Government Accountability (OPPAGA), shall develop a research design which include goals and measurable objectives for the corporation. On January 31, 2000, and annually thereafter, the corporation shall prepare a report on the financial status of the corporation and on the account which shall be given to the Governor and the Legislature. The report shall specify the assets and liabilities of the account within the current fiscal year and shall include a list of the businesses assisted and the benefits obtained by each business. Prior to the 2001 Regular Session of the Legislature, OPPAGA shall perform a review and evaluation of the corporation. The report shall review and comment on the operations and accomplishments of the corporation.



### **Timeshare Commissioner of Deeds**

The committee substitute creates part IV of chapter 721, F.S., providing for the appointment of commissioners of deeds by the Governor. The commissioners shall serve 4-year terms and have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state. However, the authority provided to the commissioners shall be limited to those instruments or writings executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken in the manner directed by the laws of this state.

Any person seeking to be appointed a commissioner of deeds shall take an oath before a notary public in this state, or before an authorized person in another country. The oath shall be filed with the Department of State prior to the person being commissioned. Official acts performed by any previously appointed commissioners of deeds between May 30, 1997, and the effective date of this part, are declared valid. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation has no authority to regulate, enforce, or ensure compliance with any provision of this part.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

The Florida State International Archive and Repository and all materials located within it shall be subject to the open records provisions of s. 119.07(1), F.S.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Private entities may experience some certainty when considering international transactions with particular jurisdictions, in that they will be able to obtain efficient justice from either the courts of Florida or of the foreign jurisdiction. The provisions of this committee substitute may also create an incentive for foreign jurisdictions to ensure appropriate treatment of the decisions of Florida courts.

Private entities may benefit from the Florida State International Archive provisions of this committee substitute by gaining access to information via the world wide web on matters which include foreign money judgments, trading pacts, and international-related studies.

The establishment of the Florida Business Expansion Corporation may allow private entities to grow through the creation of joint ventures, strategic alliances, technology licensing agreements, capital transactions, and other commercial relationships between Florida businesses and non-Florida entities.

The timeshare industry in this state may continue to benefit from the Commissioner of Deeds provisions in this committee substitute by facilitating its international marketing efforts.

**C. Government Sector Impact:**

Enterprise Florida, Inc., may experience an indeterminate cost associated with the reporting requirements of this committee substitute.

Local governments may incur a minimal cost associated with the filing of foreign money judgments with the Department of State.

The Division of Library and Information Services of the Department of State may incur an indeterminate cost in creating and maintaining the Florida State International Archive and Repository.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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