

By the Committee on Commerce and Economic Opportunities; and
Senators Meek, Dawson-White, Jones and Dyer

310-2034-99

1 A bill to be entitled
2 An act relating to property and services
3 procurement; amending s. 240.205, F.S.;
4 requiring that the Board of Regents comply with
5 the minority business enterprise program;
6 amending s. 240.227, F.S.; requiring that
7 university presidents comply with the minority
8 business enterprise program; amending s.
9 287.012, F.S.; redefining the terms "agency"
10 and "office"; creating s. 287.085, F.S.;
11 providing for price preferences in historically
12 underutilized business zones; creating s.
13 287.086, F.S.; creating a small business
14 enterprise program with goals, incentives, and
15 size standards; amending s. 287.0943, F.S.;
16 revising certification criteria for certain
17 minority business enterprises; amending s.
18 287.09431, F.S.; providing for flexibility in
19 statewide reciprocal certification agreements;
20 amending s. 287.09451, F.S.; creating the
21 Commission on Small Business and Economic
22 Development composed of the Governor, two
23 persons appointed by the President of the
24 Senate, and two persons appointed by the
25 Speaker of the House of Representatives;
26 renaming the Minority Business Advocacy and
27 Assistance Office as the Small Business and
28 Economic Development Office; revising
29 procedural requirements for property and
30 services expenditure percentages for specified
31 minorities; requiring the office to develop

1 procedures to establish dollar goals by
2 procurement category for certain agencies;
3 providing an expiration date; providing for the
4 appointment of a Minority Business Ombudsman;
5 creating a mentor and protege program; creating
6 s. 287.09452, F.S.; establishing the Small and
7 Minority Business Management and Technical
8 Assistance Program; providing state purposes;
9 providing for participation; providing program
10 criteria and requirements; providing duties of
11 the Small Business and Economic Development
12 Office; authorizing the office to engage in
13 certain financial activities for program
14 purposes; requiring a report; creating s.
15 287.0946, F.S.; authorizing the Small Business
16 and Economic Development Office to establish a
17 linked-deposit program for minority and small
18 business enterprises; providing an expiration
19 date; amending s. 290.0075, F.S.; extending the
20 expiration date of the enterprise-zone
21 linked-deposit program; amending ss. 17.11,
22 255.102, 287.042, 287.057, 287.0947, 288.703,
23 F.S.; conforming provisions; amending s.
24 288.707, F.S.; providing for additional members
25 of the Florida Black Business Investment Board;
26 amending s. 288.901, F.S.; providing for an
27 additional member of the board of directors of
28 Enterprise Florida, Inc.; amending s. 288.9015,
29 F.S.; providing for Enterprise Florida, Inc.,
30 to include small and minority businesses in
31 certain programs; amending s. 288.905, F.S.;

1 revising duties of the board of directors of
2 Enterprise Florida, Inc., to include small,
3 black-owned, and minority-owned businesses;
4 amending s. 288.906, F.S.; clarifying the
5 contents of the annual report of Enterprise
6 Florida, Inc.; amending s. 288.9412, F.S.;
7 providing for an additional member of the
8 International Trade and Economic Development
9 Board; amending s. 288.9414, F.S.; including
10 minority-owned businesses within certain export
11 assistance programs; amending s. 288.9611,
12 F.S.; specifying a member of the capital
13 development board; amending s. 288.9613, F.S.;
14 including small and minority-owned businesses
15 within the purposes of the capital development
16 board; amending s. 288.9614, F.S.; including
17 small and minority-owned businesses within
18 certain authorized programs; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (6) of section 240.205, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 240.205 Board of Regents incorporated.--The Board of
26 Regents is hereby created as a body corporate with all the
27 powers of a body corporate for all the purposes created by, or
28 that may exist under, the provisions of this chapter or laws
29 amendatory hereof and shall:

30 (6) Acquire real and personal property and contract
31 for the sale and disposal of same and approve and execute

1 contracts for the acquisition of commodities, goods,
2 equipment, contractual services, leases of real and personal
3 property, and construction. The acquisition may include
4 purchase by installment or lease-purchase. Such contracts may
5 provide for payment of interest on the unpaid portion of the
6 purchase price. The board may also acquire the same
7 commodities, goods, equipment, contractual services, leases,
8 and construction for use by a university when the contractual
9 obligation exceeds \$1 million. Title to all real property,
10 however acquired, shall be vested in the Board of Trustees of
11 the Internal Improvement Trust Fund and shall be transferred
12 and conveyed by it. Notwithstanding any other provisions of
13 this subsection, the Board of Regents shall comply with the
14 provisions of s. 287.055 for the procurement of professional
15 services as defined in that section and with s. 287.09451 and
16 other sections relating to the minority business enterprise
17 program therein.

18 Section 2. Subsection (12) of section 240.227, Florida
19 Statutes, 1998 Supplement, is amended to read:

20 240.227 University presidents; powers and duties.--The
21 president is the chief administrative officer of the
22 university and is responsible for the operation and
23 administration of the university. Each university president
24 shall:

25 (12) Approve and execute contracts for the acquisition
26 of commodities, goods, equipment, services, leases of real and
27 personal property, and construction to be rendered to or by
28 the university, provided such contracts are made pursuant to
29 rules of the Board of Regents, are for the implementation of
30 approved programs of the university, and do not require
31 expenditures in excess of \$1 million. The acquisition may be

1 made by installment or lease-purchase contract. Such
2 contracts may provide for the payment of interest on the
3 unpaid portion of the purchase price. Notwithstanding any
4 other provisions of this subsection, university presidents
5 shall comply with the provisions of s. 287.055 for the
6 procurement of professional services and with s. 287.09451 and
7 other sections relating to the minority business enterprise
8 program,and may approve and execute all contracts for
9 planning, construction, and equipment for projects with
10 building programs and construction budgets approved by the
11 Board of Regents.

12 Section 3. Subsections (1) and (19) of section
13 287.012, Florida Statutes, 1998 Supplement, are amended to
14 read:

15 287.012 Definitions.--The following definitions shall
16 apply in this part:

17 (1) "Agency" means any of the various state officers,
18 departments, boards, commissions, divisions, bureaus, and
19 councils and any other unit of organization, however
20 designated, of the executive branch of state government.

21 "Agency" does not include the Board of Regents or the State
22 University System, except as it relates to compliance with the
23 state's minority business enterprise program in s. 287.09451
24 and other related sections, rules, policies, and procedures.

25 (19) "Office" means the Small Minority Business and
26 Economic Development Advocacy and Assistance Office of the
27 Commission on Small Business and Economic Development
28 ~~Department of Labor and Employment Security.~~

29 Section 4. Section 287.085, Florida Statutes, is
30 created to read:

31 287.085 Historically underutilized business zones.--

1 (1) Whenever two or more bids or proposals that are
2 equal with respect to price, quality, service, and minority
3 business participation are received by a state agency or the
4 State University System for the procurement of goods or
5 services under a contract solicitation, a bid or proposal
6 received from a certified zone business must be awarded a
7 10-percent price preference, a state-of-Florida vendor
8 preference, or weighted points amounting to 10 percent of the
9 overall points. In order to be a certified zone business, the
10 business must:
11 (a) Certify that at least 35 percent of its employees
12 are full-time residents of a zone in this state; or
13 (b) Certify that it is providing a commercially useful
14 function with the license to do business in the state.
15 (2) Each agency is encouraged to spend 0.5 percent of
16 moneys actually expended on private vendors and use purchasing
17 incentives with zone businesses.
18 (3) For the purposes of this section, the term "zone"
19 means a historically underutilized business zone in a
20 geographical area that has been designated as an enterprise
21 zone under chapter 290 or an area targeted by the Governor.
22 (4) Spending with zone businesses that are owned and
23 operated by a woman or a minority person shall be counted
24 towards the goals specified in s. 287.09451.
25 (5) This section does not apply to related services or
26 contracts subject to chapter 339.
27 (6) The Commission on Small Business and Economic
28 Development shall adopt rules, monitor and report progress,
29 and do all things necessary or convenient to guide all state
30 agencies and the State University System toward making
31 expenditures for commodities, contractual services,

1 construction, and architectural and engineering services with
2 historically-underutilized-business-zones businesses.

3 Section 5. Section 287.086, Florida Statutes, is
4 created to read:

5 287.086 Small business enterprise program.--

6 (1) An eligible small business enterprise is one that
7 is located in an area targeted by the Governor or domiciled in
8 the state and that is independently owned and operated and
9 does not exceed the small business size standard in the
10 relevant standard industry code, as outlined in 13 C.F.R.,
11 part 121. Any business that is certified as a small business
12 by any governmental entity is deemed reciprocally certified
13 for this program upon presentation of current certification
14 letters or certificates from a governmental entity or its
15 designee to the Small Business and Economic Development
16 Office. This office must verify with the certifying
17 governmental entity that the information is current and that
18 the business does not exceed the established size standards of
19 13 C.F.R., part 121. Upon verification, the firm may be
20 registered with the Small Business and Economic Development
21 Office.

22 (2) Purchases of competitively bid commodities,
23 construction, contractual services, and professional services
24 may be reserved by state agencies and the State University
25 System for registered small business enterprises. Reserved
26 procurement must be by economically feasible contracts or
27 portions of contracts within the capability of small business
28 enterprises as described in subsection (1). In order to assure
29 necessary competition, at least three registered firms must be
30 available in the area before the purchase may be reserved.
31 State agencies and state universities may use a 10-percent

1 price incentive or a state-of-Florida vendor incentive for
2 small business enterprises.

3 (3) Payment and performance bonds may be waived on
4 state projects for small business enterprises under s.
5 255.05(1)(a). The state agency shall comply with the following
6 procedures to determine whether to waive bond requirements for
7 a project:

8 (a) Identify those projects that are eligible;

9 (b) Determine, by careful review of the technical
10 documents, the nature, scope, and complexity of the project;
11 and

12 (c) Review the list to ensure that at least three
13 small business enterprises are registered to perform the work.

14 (4) When a firm registered with the Small Business and
15 Economic Development Office is awarded a state project as a
16 prime contractor, state agencies, or state universities may
17 permit the issuance of joint checks. The use of this procedure
18 shall not be construed to create a contractual relationship
19 between the state and the supply or material house or other
20 outside vendors of the small business enterprise. It is
21 intended solely for the benefit and assistance of the small
22 business enterprise.

23 (5) The small business enterprise must be registered
24 with the Commission on Small Business and Economic
25 Development.

26 (6) The Commission on Small Business Development shall
27 adopt rules, monitor, and do all things necessary or
28 convenient to guide all state agencies and state universities
29 toward making expenditures for commodities, contractual
30 services, construction, and architecture and engineering
31 services to small business enterprises.

1 Section 6. Paragraphs (b) and (e) of subsection (1)
2 and paragraph (a) of subsection (4) of section 287.0943,
3 Florida Statutes, 1998 Supplement, are amended to read:

4 287.0943 Certification of minority business
5 enterprises.--

6 (1)

7 (b) The task force shall be regionally balanced and
8 comprised of officials representing the department, counties,
9 municipalities, school boards, special districts, and other
10 political subdivisions of the state who administer programs to
11 assist minority businesses in procurement or development in
12 government-sponsored programs. The following organizations may
13 appoint two members each of the task force who fit the
14 description above:

- 15 1. The Florida League of Cities, Inc.
- 16 2. The Florida Association of Counties.
- 17 3. The Florida School Boards Association, Inc.
- 18 4. The Association of Special Districts.
- 19 5. The Florida Association of Minority Business
20 Enterprise Officials.
- 21 6. The Florida Association of Government Purchasing
22 Officials.

23
24 In addition, the Small Minority Business and Economic
25 Development Advocacy and Assistance Office shall appoint seven
26 members consisting of three representatives of minority
27 business enterprises, two officials of the office, and two
28 at-large members to ensure regional, gender, racial, and
29 ethnic balance among the groups specified in s. 288.703(3).
30 The chairperson of the Legislative Committee on
31 Intergovernmental Relations or a designee shall be a member of

1 the task force, ex officio. A quorum shall consist of
2 one-third of the current members, and the task force may take
3 action by majority vote. Any vacancy may only be filled by the
4 organization or agency originally authorized to appoint the
5 position.

6 (e) In assessing the status of ownership and control,
7 certification criteria shall, at a minimum:

8 1. Link ownership by a minority person, as defined in
9 s. 288.703(3), or as dictated by the legal obligations of a
10 certifying organization, to day-to-day control and financial
11 risk by the qualifying minority owner, and to licensure of a
12 minority owner in any trade or profession that the minority
13 business enterprise will offer to the state when certified;
14 however, the minority licenseholder need not be the
15 controlling owner of the enterprise, but must hold an
16 ownership interest. Minority business enterprises presently
17 certified by the state will not be subject to the licensure
18 requirement until 5 years after the effective date of this
19 act.

20 2. If present ownership was obtained by transfer,
21 require the minority person on whom eligibility is based to
22 have owned at least 51 percent of the applicant firm for a
23 minimum of 2 years, when any previous majority ownership
24 interest in the firm was by a nonminority who is or was a
25 relative, former employer, or current employer of the minority
26 person on whom eligibility is based. This requirement shall
27 not apply to minority persons who are otherwise eligible who
28 take a 51-percent-or-greater interest in a firm that requires
29 professional licensure to operate and who will be the
30 qualifying licenseholder for the firm when certified. A
31 transfer made within a related immediate family group from a

1 nonminority person to a minority person in order to establish
2 ownership by a minority person shall be deemed to have been
3 made solely for purposes of satisfying certification criteria
4 and shall render such ownership invalid for purposes of
5 qualifying for such certification if the combined total net
6 asset value of all members of such family group exceeds \$1
7 million. For purposes of this subparagraph, the term "related
8 immediate family group" means one or more children under 16
9 years of age and a parent of such children or the spouse of
10 such parent residing in the same house or living unit.

11 3. Require that prospective certified minority
12 business enterprises be currently performing a useful business
13 function. A "useful business function" is defined as a
14 business function which results in the provision of materials,
15 supplies, equipment, or services ~~to customers other than state~~
16 ~~or local government~~. Acting as a conduit to transfer funds to
17 a nonminority business does not constitute a useful business
18 function unless it is done so in a normal industry practice. A
19 supplier that has a distributorship agreement, other forms of
20 industry agreements, or lines of credit and that demonstrates
21 a means of procuring and transporting goods, including catalog
22 sales and drop shipments, is considered to be providing a
23 useful business function. ~~As used in this section, the term~~
24 ~~"acting as a conduit" means, in part, not acting as a regular~~
25 ~~dealer by making sales of material, goods, or supplies from~~
26 ~~items bought, kept in stock, and regularly sold to the public~~
27 ~~in the usual course of business. Brokers, manufacturer's~~
28 ~~representatives, sales representatives, and nonstocking~~
29 ~~distributors are considered as conduits that do not perform a~~
30 ~~useful business function, unless normal industry practice~~
31 ~~dictates.~~

1 (4)(a) The executive administrator ~~secretary~~ of the
2 Small Business and Economic Development Office ~~Department of~~
3 ~~Labor and Employment Security~~ shall monitor and implement
4 ~~execute the~~ statewide reciprocal certification and interlocal
5 ~~agreement~~ established under s. 287.09431 on behalf of the
6 state. The office shall certify minority business enterprises
7 in accordance with statewide reciprocal certification ~~the~~
8 ~~agreement and, by affidavit,~~ shall recertify such minority
9 business enterprises not less than once every 2 years ~~each~~
10 ~~year.~~

11 Section 7. Section 287.09431, Florida Statutes, is
12 amended to read:

13 (Substantial rewording of section. See
14 s. 287.09431, F.S., for present text.)
15 287.09431 Statewide reciprocal certification of
16 business concerns for the status of minority business
17 enterprise.--The statewide reciprocal certification of
18 business concerns for the status of minority business
19 enterprise is hereby enacted and entered into with all
20 jurisdictions or organizations legally joining therein. The
21 executive administrator of the Small Business and Economic
22 Development Office may enter into flexible agreements with all
23 jurisdictions for the purpose of effectuating this section.
24 Therefore, additional eligibility criteria may be permissible
25 in order for local government jurisdictions and private
26 organizations to comply with local and federal laws,
27 especially those laws that are enacted to counter the findings
28 of disparity studies. The executive administrator of the Small
29 Business and Economic Development Office may negotiate the
30 terms of agreement with the local government jurisdictions and
31 private organizations to include as many participating

1 entities as feasible, whether or not they have minority
2 business programs.

3 Section 8. Section 287.09451, Florida Statutes, 1998
4 Supplement, is amended to read:

5 287.09451 Commission on Small Business and Economic
6 Development ~~Minority Business Advocacy and Assistance Office;~~
7 powers, duties, and functions.--

8 (1) The Legislature finds that there is evidence that
9 minority business enterprises face extraordinary obstacles and
10 barriers in this state which impact their ability to compete
11 for contracts. The purpose and intent of the Legislature is to
12 provide these businesses with technical, managerial,
13 contracting, and financial assistance in order to make their
14 search for government contracts consistently fruitful. The
15 Legislature further finds that there is evidence of a
16 systematic pattern of past and continuing racial
17 discrimination against minority business enterprises and a
18 disparity in the availability and use of minority business
19 enterprises in the state procurement system. It is determined
20 to be a compelling state interest to rectify that
21 discrimination and disparity. Based upon statistical data
22 profiling discrimination, the Legislature has enacted this
23 race-conscious and gender-conscious remedial program to ensure
24 minority participation in the economic life of the state, in
25 state contracts for the purchase of commodities, contractual
26 services, architectural and engineering services, and in
27 construction contracts. The purpose and intent of this section
28 is to increase participation by minority business enterprises
29 in the state procurement system. This purpose will be
30 accomplished by encouraging the use of minority business

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1 enterprises and the entry of new and diversified minority
2 business enterprises into the marketplace.

3 (2) There is created the Commission on Small Business
4 and Economic Development, the membership of which shall be the
5 Governor, two persons appointed by the President of the
6 Senate, and two persons appointed by the Speaker of the House
7 of Representatives. The commission is assigned to the Office
8 of Tourism, Trade, and Economic Development for administrative
9 purposes and fiscal accountability. The Governor is the
10 chairperson of the commission, and may call a meeting of the
11 commission when the need arises. All actions taken by the
12 commission may be taken by approval of a simple majority.

13 (3) An executive administrator to the commission shall
14 be appointed and may be removed by the Governor.

15 (4) The executive administrator is responsible for all
16 administrative functions of the commission, including
17 budgeting, personnel, purchasing, and such additional matters
18 as are delegated by the commission.

19 (5) The executive administrator shall employ, within
20 budgetary limitations, such staff as are necessary to perform
21 adequately the functions of the commission.

22 (6) The executive administrator shall develop a budget
23 in accordance with chapter 216 and submit it to the Executive
24 Office of the Governor.

25 (7) The commission shall:

26 (a) Provide overall leadership and promote
27 coordination of economic and business development resources
28 for the benefit of minority business enterprises and of
29 distressed communities that are affected by the business.

30 (b) Develop a comprehensive strategic plan that will
31 provide the maximum practical opportunity for economic growth

1 of black-owned businesses and other minority businesses in
2 this state.

3 (c) Provide direction relating to economic and
4 business development of minority business enterprises to
5 regional and statewide planning entities and county,
6 municipal, and special district minority business enterprise
7 programs to help promote the redevelopment of distressed areas
8 and minority business enterprises and minority and small
9 business enterprise programs, where necessary, and to foster
10 strategic alliances among these entities so as to target
11 resources and achieve specific objectives in the economic and
12 business development of minority business enterprises.

13 (d) Develop a clear statement of the mission, desired
14 outcomes and strategies for accomplishing the outcomes, and
15 performance measures to assess whether the outcomes are being
16 achieved for the state's small and minority business
17 enterprise programs. The goals are to:

18 1. Increase the size and profitability of minority
19 businesses served by the programs.

20 2. Increase the economic self-sufficiency and
21 competitiveness of minority businesses, as measured by their
22 ability to independently obtain necessary financial capital
23 and surety bonding, and to successfully compete for larger
24 government contracts, in terms of gross contract amount,
25 outside a served or sheltered market.

26 3. Significantly reduce the disparities evidenced by a
27 statistical analysis of the availability and use of minority
28 businesses for state procurement.

29 (e) Develop an analysis of the existing strategies of
30 the state's minority business enterprise programs to determine
31 whether the strategies are cost-effective or whether

1 alternative strategies should be developed to more
2 cost-effectively achieve the desired outcomes.

3 (f) Submit the information required to be developed to
4 the Governor, the President of the Senate, and the Speaker of
5 the House of Representatives by February 1 of each year.~~of a~~
6 ~~systematic pattern of past and continuing racial~~
7 ~~discrimination against minority business enterprises and a~~
8 ~~disparity in the availability and use of minority business~~
9 ~~enterprises in the state procurement system. It is determined~~
10 ~~to be a compelling state interest to rectify such~~
11 ~~discrimination and disparity. Based upon statistical data~~
12 ~~profiling this discrimination, the Legislature has enacted~~
13 ~~race-conscious and gender-conscious remedial programs to~~
14 ~~ensure minority participation in the economic life of the~~
15 ~~state, in state contracts for the purchase of commodities and~~
16 ~~services, and in construction contracts. The purpose and~~
17 ~~intent of this section is to increase participation by~~
18 ~~minority business enterprises accomplished by encouraging the~~
19 ~~use of minority business enterprises and the entry of new and~~
20 ~~diversified minority business enterprises into the~~
21 ~~marketplace.~~

22 ~~(2) The Minority Business Advocacy and Assistance~~
23 ~~Office is established within the Department of Labor and~~
24 ~~Employment Security to assist minority business enterprises in~~
25 ~~becoming suppliers of commodities, services, and construction~~
26 ~~to state government.~~

27 ~~(3) The secretary shall appoint an executive director~~
28 ~~for the Minority Business Advocacy and Assistance Office, who~~
29 ~~shall serve at the pleasure of the secretary.~~

30 (8)(4) The Small Minority Business and Economic
31 Development Advocacy and Assistance Office is established

1 within the commission to assist small and minority businesses
2 in becoming suppliers of commodities, services, and
3 construction to state governments. The Small Business and
4 Economic Development Office shall have the following powers,
5 duties, and functions:

6 (a) To adopt rules to determine what constitutes a
7 "good faith effort" for purposes of state agency compliance
8 with the minority business enterprise procurement goals set
9 forth in s. 287.042. Factors which shall be considered by the
10 Small ~~Minority~~ Business and Economic Development ~~Enterprise~~
11 Assistance Office in determining good faith effort shall
12 include, but not be limited to:

13 1. Whether the agency scheduled presolicitation or
14 prebid meetings for the purpose of informing minority business
15 enterprises of contracting and subcontracting opportunities.

16 2. Whether the contractor advertised in general
17 circulation, trade association, or minority-focus media
18 concerning the subcontracting opportunities.

19 3. Whether the agency effectively used services and
20 resources of available minority community organizations;
21 minority contractors' groups; local, state, and federal
22 minority business assistance offices; and other organizations
23 that provide assistance in the recruitment and placement of
24 minority business enterprises or minority persons.

25 4. Whether the agency provided written notice to a
26 reasonable number of minority business enterprises that their
27 interest in contracting with the agency was being solicited in
28 sufficient time to allow the minority business enterprises to
29 participate effectively.

30 (b) To adopt rules to determine what constitutes a
31 "good faith effort" for purposes of contractor compliance with

1 contractual requirements relating to the use of services or
2 commodities of a minority business enterprise under s.
3 287.094(2). Factors which shall be considered by the Small
4 Minority Business and Economic Development Advocacy and
5 ~~Assistance~~ Office in determining whether a contractor has made
6 good faith efforts shall include, but not be limited to:
7 1. Whether the contractor attended any presolicitation
8 or prebid meetings that were scheduled by the agency to inform
9 minority business enterprises of contracting and
10 subcontracting opportunities.
11 2. Whether the contractor advertised in general
12 circulation, trade association, or minority-focus media
13 concerning the subcontracting opportunities.
14 3. Whether the contractor provided written notice to a
15 reasonable number of specific minority business enterprises
16 that their interest in the contract was being solicited in
17 sufficient time to allow the minority business enterprises to
18 participate effectively.
19 4. Whether the contractor followed up initial
20 solicitations of interest by contacting minority business
21 enterprises or minority persons to determine with certainty
22 whether the minority business enterprises or minority persons
23 were interested.
24 5. Whether the contractor selected portions of the
25 work to be performed by minority business enterprises in order
26 to increase the likelihood of meeting the minority business
27 enterprise procurement goals, including, where appropriate,
28 breaking down contracts into economically feasible units to
29 facilitate minority business enterprise participation.
30 6. Whether the contractor provided interested minority
31 business enterprises or minority persons with adequate

1 information about the plans, specifications, and requirements
2 of the contract or the availability of jobs.

3 7. Whether the contractor negotiated in good faith
4 with interested minority business enterprises or minority
5 persons, not rejecting minority business enterprises or
6 minority persons as unqualified without sound reasons based on
7 a thorough investigation of their capabilities.

8 8. Whether the contractor effectively used the
9 services of available minority community organizations;
10 minority contractors' groups; local, state, and federal
11 minority business assistance offices; and other organizations
12 that provide assistance in the recruitment and placement of
13 minority business enterprises or minority persons.

14 (c) To adopt rules and do all things necessary or
15 convenient to guide all state agencies toward making
16 expenditures for commodities, contractual services,
17 construction, and architectural and engineering services with
18 certified minority business enterprises in accordance with the
19 minority business enterprise procurement goals set forth in s.
20 287.042.

21 (d) To monitor the degree to which agencies procure
22 services, commodities, and construction from minority business
23 enterprises in conjunction with the Department of Banking and
24 Finance as specified in s. 17.11.

25 (e) To receive and disseminate information relative to
26 procurement opportunities, availability of minority business
27 enterprises, and technical assistance.

28 (f) To advise agencies on methods and techniques for
29 achieving procurement objectives.

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1 (g) To provide a central minority business enterprise
2 certification process which includes independent verification
3 of status as a minority business enterprise.

4 (h) To develop procedures to investigate complaints
5 against minority business enterprises or contractors alleged
6 to violate any provision related to this section or s.
7 287.0943, that may include visits to worksites or business
8 premises, and to refer all information on businesses suspected
9 of misrepresenting minority status to the Commission on Small
10 Business and Economic Development ~~Department of Labor and~~
11 ~~Employment Security~~ for investigation. When an investigation
12 is completed and there is reason to believe that a violation
13 has occurred, the commission ~~Department of Labor and~~
14 ~~Employment Security~~ shall refer the matter to the office of
15 the Attorney General, Department of Legal Affairs, for
16 prosecution.

17 (i) To maintain a directory of all minority business
18 enterprises which have been certified and provide this
19 information to any agency or business requesting it.

20 (j) To encourage all firms which do more than \$1
21 million in business with the state within a 12-month period to
22 develop, implement, and submit to this office a minority
23 business development plan.

24 (k) To communicate on a monthly basis with the
25 Commission on Small Business and Economic Development ~~Small~~
26 ~~and Minority Business Advisory Council~~ to keep the commission
27 ~~council~~ informed on issues relating to minority enterprise
28 procurement.

29 (l) To serve as an advocate for minority business
30 enterprises, and coordinate with the small and minority
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1 business ombudsman, as defined in s. 288.703, which duties
2 shall include:

3 1. Ensuring that agencies supported by state funding
4 effectively target the delivery of services and resources, as
5 related to minority business enterprises.

6 2. Establishing standards within each industry with
7 which the state government contracts on how agencies and
8 contractors may provide the maximum practicable opportunity
9 for minority business enterprises.

10 3. Assisting agencies and contractors by providing
11 outreach to minority businesses, by specifying and monitoring
12 technical and managerial competence for minority business
13 enterprises, and by consulting in planning of agency
14 procurement to determine how best to provide opportunities for
15 minority business enterprises.

16 4. Integrating technical and managerial assistance for
17 minority business enterprises with government contracting
18 opportunities.

19 (m) To make and execute contracts and other
20 instruments necessary for the exercise of its powers and
21 functions, and provide and pay for advisory services and
22 technical assistance that may be necessary to carry out the
23 purposes of this section.

24 (n) To request or accept any grant, including a grant
25 that requires a state match, any payment, gift of funds, or
26 property made by the state, by the United States or any
27 department or agency thereof, or by any individual firm,
28 political subdivision, corporation, municipality, county, or
29 organization for any purpose outlined in chapter 287. All such
30 funds must be deposited into the budget entity of the office,
31 and may be expended above the amount appropriated by the

1 Legislature and in accordance with the terms and conditions of
2 any such grant, payment, or gift, or in the pursuit of the
3 administration of the office or in support of the programs and
4 promotional activities recommended to the commission. If the
5 Small Business and Economic Development Office is awarded a
6 grant or private contribution that requires a match, the
7 office shall receive a matching appropriation equal to 80
8 percent of the grant or private contribution.

9 (o) To adopt rules necessary to ensure agency and
10 contractor compliance with this section and the Florida Small
11 and Minority Business Assistance Act of 1985.

12 (p)~~(m)~~ To certify minority business enterprises, as
13 defined in s. 288.703, and as specified in ss. 287.0943 and
14 287.09431, and shall recertify such minority businesses not
15 less than once a year. Minority business enterprises must be
16 recertified biannually ~~annually~~ by affidavit.

17 (q)~~(n)~~ 1. To develop procedures to be used by an agency
18 in identifying commodities, contractual services,
19 architectural and engineering services, and construction
20 contracts, except those architectural, engineering,
21 construction, or other related services or contracts subject
22 to the provisions of chapter 339, that could be provided by
23 minority business enterprises. Minority business enterprise
24 goals must be based upon the total state spending with any
25 private or nonprofit entity that is contracting with the state
26 during the current fiscal year; except for the state
27 university construction program, which must be based upon
28 public education capital outlay projections for the subsequent
29 fiscal year and reported to the Legislature under s. 216.023.
30 Each agency is encouraged to spend 12-21 ~~21~~ percent on ~~of the~~
31 ~~moneys actually expended for~~ construction contracts, 17-25 ~~25~~

1 ~~percent on of the moneys actually expended~~ for architectural
2 and engineering contracts, ~~5-24 24~~ percent ~~on of the moneys~~
3 ~~actually expended~~ for commodities, and ~~5-25 50.5~~ percent ~~on of~~
4 ~~the moneys actually expended~~ for contractual services during
5 ~~the previous fiscal year, except for the state university~~
6 ~~construction program which shall be based upon public~~
7 ~~education capital outlay projections for the subsequent fiscal~~
8 ~~year, and reported to the Legislature pursuant to s. 216.023,~~
9 ~~for the purpose of entering into contracts~~ with certified
10 minority business enterprises as defined in s. 288.703(2), or
11 approved joint ventures or mentor programs for the purpose of
12 entering into contracts. However, in the event of budget
13 reductions pursuant to s. 216.221, the base amounts may be
14 adjusted to reflect such reductions. The overall spending goal
15 for each industry category shall be subdivided as follows:
16 a. For construction contracts: ~~2.4-4.3 4~~ percent for
17 black Americans, ~~2.5-6 6~~ percent for Hispanic-Americans, ~~0.4~~
18 ~~percent for Asian-Americans, 0.3 for Native Americans, and~~
19 ~~6.4-11 11~~ percent for American women.
20 b. For architectural and engineering contracts: ~~2.6~~
21 ~~percent for black Americans, 4.5-9 9~~ percent for
22 Hispanic-Americans, 1 percent for Asian-Americans, ~~0.1 percent~~
23 ~~for Native Americans, and 8.8-15 15~~ percent for American
24 women.
25 c. For commodities: ~~1.5-4 2~~ percent for black
26 Americans, ~~1.5-4 4~~ percent for Hispanic-Americans, ~~0.2-0.5 0.5~~
27 percent for Asian-Americans, ~~0.2-0.5 0.5~~ percent for Native
28 Americans, and ~~1.6-15 17~~ percent for American women.
29 d. For contractual services: ~~0.4-7 6~~ percent for black
30 Americans, ~~0.3-7 7~~ percent for Hispanic-Americans, ~~2.3 3~~
31

1 percent for Asian-Americans, 0.2-0.5 ~~0.5~~ percent for Native
2 Americans, and 1.8-8.2 ~~36~~ percent for American women.

3 2. To develop procedures to evaluate the performance
4 of state agency heads and purchasing personnel in meeting or
5 exceeding the established percentage goals. Additionally, to
6 develop procedures to establish dollar goals, by procurement
7 category, for each agency which range in value from no less
8 than 98 percent of the overall spending goal and no more than
9 105 percent above the overall spending goal as applied to each
10 agency's total spending with any private or nonprofit entity
11 that is contracting or doing business with the state during
12 the current fiscal year; except for the state university
13 construction program, which must be based upon public
14 education capital outlay projections for the subsequent fiscal
15 year and reported to the Legislature under s. 216.023.

16 3.2. For the purposes of commodities contracts for the
17 purchase of equipment to be used in the construction and
18 maintenance of state transportation facilities involving the
19 Department of Transportation, "minority business enterprise"
20 has the same meaning as provided in s. 288.703. "Minority
21 person" has the same meaning as in s. 288.703(3). In order to
22 ensure that the goals established under this paragraph for
23 contracting with certified minority business enterprises are
24 met, ~~the department, with the assistance of the~~ Small Minority
25 Business and Economic Development Advocacy and Assistance
26 Office, shall make recommendations to the Legislature on
27 revisions to the goals, based on an updated statistical
28 analysis, at least once every 5 years. Such recommendations
29 shall be based on statistical data indicating the availability
30 of and disparity in the use of minority businesses contracting
31 with the state. The results of the second ~~first~~ updated

1 disparity study must be presented to the Legislature no later
2 than December 1, 2002, to determine the effectiveness in
3 achieving stated goals and to revise or modify program
4 components for the full achievement of the goals. In those
5 specific areas, including procurement category, ethnic group,
6 geographic region, or agency, when the Legislature determines
7 that there is no disparity in the participation of minority
8 business enterprises based on the disparity analysis, the
9 minority business program must be discontinued, in those areas
10 only, within 1 year after the Legislature's determination. The
11 Governor shall designate a Minority Business Ombudsman to
12 monitor progress, receive complaints, and report progress to
13 the commission, by November 1 of each year, in those areas in
14 which the minority business enterprise programs are phased out
15 or repealed to determine whether disparities or discrimination
16 is a recurring problem. The minority business enterprise
17 program may be reestablished in phased-out programs, when
18 disparities in minority business utilization reoccurs. This
19 section expires July 1, 2006; however, the Minority Business
20 Ombudsman shall continue to monitor, receive complaints, make
21 recommendations, and report findings to the Governor.~~1996~~

22 ~~4.3-~~ In determining the base amounts for assessing
23 compliance with this paragraph, the Small ~~Minority~~ Business
24 and Economic Development ~~Advocacy and Assistance~~ Office may
25 develop, by rule, guidelines for all agencies to use in
26 establishing such base amounts. These rules must include, but
27 are not limited to, guidelines for calculation of base
28 amounts, a deadline for the agencies to submit base amounts, a
29 deadline for approval of the base amounts by the Small
30 Minority Business and Economic Development ~~Advocacy and~~
31 ~~Assistance~~ Office, and procedures for adjusting the base

1 amounts as a result of budget reductions made pursuant to s.
2 216.221.

3 ~~5.4.~~ To determine guidelines for the use of price
4 preferences, weighted preference formulas, individual project
5 goals, or other preferences, as appropriate to the particular
6 industry or trade, to increase the participation of minority
7 businesses in state contracting. These guidelines shall
8 include consideration of:

9 a. Size and complexity of the project.

10 b. The concentration of transactions with minority
11 business enterprises for the commodity or contractual services
12 in question in prior agency contracting.

13 c. The specificity and definition of work allocated to
14 participating minority business enterprises.

15 d. The capacity of participating minority business
16 enterprises to complete the tasks identified in the project.

17 e. The available pool of minority business enterprises
18 as prime contractors, either alone or as partners in an
19 approved joint venture that serves as the prime contractor.

20 (f) The geographical location of certified minority
21 business enterprises where location is a relevant factor.

22 ~~6.5.~~ To establish programs, adopt rules, establish
23 guidelines, and develop annual plans, where applicable, to be
24 followed by the participants of the mentor program and
25 ~~determine guidelines for use of~~ joint ventures to meet
26 minority business enterprises spending goals. For purposes of
27 this section, "joint venture" means any association of two or
28 more business concerns to carry out a single business
29 enterprise for profit, for which purpose they combine their
30 property, capital, efforts, skills, or ~~and~~ knowledge. The
31 guidelines shall allow transactions with joint ventures to be

1 eligible for credit against the minority business enterprise
2 goals of an agency when the contracting joint venture
3 demonstrates that at least one partner to the joint venture is
4 a certified minority business enterprise as defined in s.
5 288.703, and that such partner is responsible for a clearly
6 defined portion of the work to be performed, and can
7 demonstrate a plan to enhance the certified minority business
8 enterprises' profitability, management skills, financial
9 standing, and marketplace position ~~shares in the ownership,~~
10 ~~control, management, responsibilities, risks, and profits of~~
11 ~~the joint venture~~. Such demonstration shall be by verifiable
12 documents and sworn statements and may be reviewed by the
13 Small Minority Business and Economic Development Advocacy and
14 ~~Assistance~~ Office at or before the time a contract bid is
15 submitted. An agency may count toward its minority business
16 enterprise goals a portion of the total dollar amount of a
17 contract ~~equal to the percentage of the ownership and control~~
18 held by the qualifying certified minority business partners in
19 the business relationship ~~contracting joint venture~~, so long
20 as it ~~the joint venture~~ meets the guidelines adopted by the
21 office.

22 (r) Mentor programs may be established for businesses
23 to qualify to bid on state projects.

24 1. A mentor must possess all applicable state and
25 local licenses related to conducting the mentor's business. A
26 mentor shall provide to a certified minority business
27 enterprise any financial, technical, ethical, management, and
28 practical training and guidance relating to the conduct of the
29 mentor's business, which shall be outlined as written goals
30 and submitted for review to the Small Business and Economic
31 Development Office.

1 2. Mentor requirements apply only to businesses that
2 apply for the mentor program, compete for state contracts, and
3 want certified minority business enterprise participation
4 credit on a state contract. The protege of the mentor
5 relationship, must be a certified minority business
6 enterprise.

7 3. Mentors who mentor certified minority business
8 enterprises or small business enterprise located in an area
9 targeted by the Governor's Front Porch Florida Initiative may
10 receive credit for meeting minority business enterprise
11 contracting goals.

12 4. A protege under the program shall participate by
13 being available to benefit from information and expertise
14 offered by the mentor. To qualify as a protege, a business
15 must be a certified minority business enterprise.

16 5. The mentor shall submit the written mentor plan to
17 the Small Business and Economic Development Office, for
18 approval, if the mentor desires to submit the mentor-protege
19 relationship for minority business enterprise participation
20 credit.

21 ~~(s)(o)~~1. To establish a system to record and measure
22 the use of certified minority business enterprises in state
23 contracting. This system shall maintain information and
24 statistics on certified minority business enterprise
25 participation, awards, dollar volume of expenditures and
26 agency goals, and other appropriate types of information to
27 analyze progress in the access of certified minority business
28 enterprises to state contracts and to monitor agency
29 compliance with this section. Such reporting must include, but
30 is not limited to, the identification of all subcontracts in
31 state contracting, including state negotiated agreement price

1 schedule contracts and state term contracts,by dollar amount
2 and by number of subcontracts and the identification of the
3 utilization of certified minority business enterprises as
4 prime contractors and subcontractors by dollar amounts of
5 contracts and subcontracts, number of contracts and
6 subcontracts, minority status, industry, and any conditions or
7 circumstances that significantly affected the performance of
8 subcontractors. Agencies shall report their compliance with
9 the requirements of this reporting system at least annually
10 and at the request of the office. All agencies shall cooperate
11 with the office in establishing this reporting system. Except
12 in construction contracting, all agencies shall review
13 contracts costing in excess of CATEGORY FOUR as defined in s.
14 287.017 to determine if such contracts could be divided into
15 smaller contracts to be separately bid and awarded, and shall,
16 when economical, offer such smaller contracts to encourage
17 minority participation.

18 2. To report agency compliance with the provisions of
19 subparagraph 1. for the preceding fiscal year to the
20 commission Governor and Cabinet, ~~the President of the Senate,~~
21 ~~the Speaker of the House of Representatives,~~ and the secretary
22 ~~of the Department of Labor and Employment Security~~ on or
23 before February 1 of each year. The report must contain, at a
24 minimum, the following:

25 a. Total expenditures of each agency by industry.

26 b. The dollar amount and percentage of contracts
27 awarded to certified minority business enterprises by each
28 state agency.

29 c. The dollar amount and percentage of contracts
30 awarded indirectly to certified minority business enterprises
31 as subcontractors by each state agency.

1 d. The total dollar amount and percentage of contracts
2 awarded to certified minority business enterprises, whether
3 directly or indirectly, as subcontractors.

4 e. A statement and assessment of good faith efforts
5 taken by each state agency.

6 f. A status report of agency compliance with
7 subsection (6), as determined by the Small Minority Business
8 and Economic Development Enterprise Office.

9 (9)(5)(a) Each agency shall, at the time the
10 specifications or designs are developed or contract sizing is
11 determined for any proposed procurement costing in excess of
12 CATEGORY FOUR, as defined in s. 287.017, forward a notice to
13 the Small Minority Business and Economic Development Advocacy
14 and Assistance Office of the proposed procurement and any
15 determination on the designs of specifications of the proposed
16 procurement that impose requirements on prospective vendors,
17 no later than 30 days prior to the issuance of a solicitation,
18 except that this provision shall not apply to emergency
19 acquisitions. The 30-day notice period shall not toll the time
20 for any other procedural requirements.

21 (b) If the Small Minority Business and Economic
22 Development Advocacy and Assistance Office determines that the
23 proposed procurement will not likely allow opportunities for
24 minority business enterprises, the office may, within 20 days
25 after it receives the information specified in paragraph (a),
26 propose the implementation of minority business enterprise
27 utilization provisions or submit alternative procurement
28 methods that would significantly increase minority business
29 enterprise contracting opportunities.

30 (c) Whenever the agency and the Small Minority
31 Business and Economic Development Advocacy and Assistance

1 Office disagree, the matter shall be submitted for
2 determination to the head of the agency or the senior-level
3 official designated pursuant to this section as liaison for
4 minority business enterprise issues.

5 (d) Should the proposed procurement proceed to
6 competitive bidding, the office is hereby granted standing to
7 protest, pursuant to this section, in a timely manner, any
8 contract award in competitive bidding for contractual services
9 and construction contracts that fail to include minority
10 business enterprise participation, if any responding bidder
11 has demonstrated the ability to achieve any level of
12 participation, or, any contract award for commodities where, a
13 reasonable and economical opportunity to reserve a contract,
14 statewide or district level, for minority participation was
15 not executed or, an agency failed to adopt an applicable
16 preference for minority participation. The bond requirement
17 shall be waived for the office purposes of this subsection.

18 (e) An agency may presume that a bidder offering no
19 minority participation has not made a good faith effort when
20 other bidders offer minority participation of firms listed as
21 relevant to the agency's purchasing needs in the pertinent
22 locality or statewide to complete the project.

23 (f) Paragraph (a) will not apply when the Small
24 Minority Business and Economic Development Advocacy and
25 Assistance Office determines that an agency has established a
26 work plan to allow advance consultation and planning with
27 minority business enterprises and where such plan clearly
28 demonstrates:

29 1. A high level of advance planning by the agency with
30 minority business enterprises.

31

1 2. A high level of accessibility, knowledge, and
2 experience by minority business enterprises in the agency's
3 contract decisionmaking process.

4 3. A high quality of agency monitoring and enforcement
5 of internal implementation of minority business utilization
6 provisions.

7 4. A high quality of agency monitoring and enforcement
8 of contractor utilization of minority business enterprises,
9 especially tracking subcontractor data, and ensuring the
10 integrity of subcontractor reporting.

11 5. A high quality of agency outreach, agency
12 networking of major vendors with minority vendors, and
13 innovation in techniques to improve utilization of minority
14 business enterprises.

15 6. Substantial commitment, sensitivity, and proactive
16 attitude by the agency head and among the agency minority
17 business staff.

18 (6) Each state agency shall coordinate its minority
19 business enterprise procurement activities with the Small
20 Minority Business and Economic Development Advocacy and
21 Assistance Office. At a minimum, each agency shall:

22 (a) Adopt a minority business enterprise utilization
23 plan for review and approval by the Small Minority Business
24 and Economic Development Advocacy and Assistance Office which
25 should require meaningful and useful methods to attain the
26 legislative intent in assisting minority business enterprises.

27 (b) Designate a senior-level employee in the agency as
28 a minority enterprise assistance officer, responsible for
29 overseeing the agency's minority business utilization
30 activities, and who is not also charged with purchasing
31 responsibility. A senior-level agency employee and agency

1 purchasing officials shall be accountable to the agency head
2 for the agency's minority business utilization performance.
3 The Small Minority Business and Economic Development Advocacy
4 ~~and Assistance~~ Office shall advise each agency on compliance
5 performance.

6 (c) If an agency deviates significantly from its
7 utilization plan in 2 consecutive or 3 out of 5 total fiscal
8 years, the Small Minority Business and Economic Development
9 ~~Advocacy and Assistance~~ Office may review any and all
10 solicitations and contract awards of the agency as deemed
11 necessary until such time as the agency meets its utilization
12 plan.

13 Section 9. Section 287.09452, Florida Statutes, is
14 created to read:

15 287.09452 Small and Minority Business Management and
16 Technical Assistance Program.--

17 (1) It is the policy of the state to meaningfully
18 assist small business enterprises and certified minority
19 business enterprises by developing skills through a program of
20 construction and business-management training, as well as by
21 providing contracting opportunities, partnering for
22 mentor-proteges, joint ventures, and financial assistance in
23 the form of bond guarantees to primarily remedy the effects of
24 past economic disparity and historical discrimination.

25 (2) Participation in the program is limited to those
26 businesses that are certified by the Small Business and
27 Economic Development Office as a minority business enterprise
28 or small business enterprise. The programs are to consist of
29 classroom instruction and on-the-job instruction. To the
30 extent feasible, the registration fee may be set to cover the
31

1 cost of instruction and overhead. No salary may be paid to any
2 participant.

3 (a) This program may be conducted by contract or
4 otherwise.

5 (b) Classroom instruction shall consist of, but is not
6 limited to, project planning methods for identifying
7 personnel, equipment, and financial resource needs;
8 bookkeeping; marketing; bidding and bonding requirements;
9 state and federal tax requirements; and strategies for
10 obtaining loans, bonding, and joint venture and mentoring
11 agreements and alliances.

12 (c) On-the-job instruction shall consist of, but is
13 not limited to, setting up the job site, cash flow method,
14 accounting, project scheduling, quantity takeoffs, estimating,
15 reading plans and specifications, procedures concerning
16 billing and payments, quality assessment and control methods,
17 and bid and proposal preparation methods.

18 (d) The Small Business and Economic Development Office
19 shall develop, under contract with the State University
20 System, the community college system, a school district on
21 behalf of its vocational-technical center, or a private
22 consulting firm, a curriculum for instruction in the courses
23 that will lead to a certification of proficiency in business
24 management for certified minority businesses and small
25 businesses.

26 (e) The Small Business and Economic Development Office
27 may expend funds on a bond guarantee program for certified
28 minority business enterprises and small business enterprises
29 that have demonstrated satisfactory project performance as
30 prescribed by the guidelines. The state will guarantee up to
31 90 percent of any bond amount that is \$250,000 or less and 80

1 percent of any bond amount that is greater than \$250,000, if
2 the bond is provided by an approved surety.

3 (3) The Small Business and Economic Development Office
4 may accept financial contributions into the Small and Minority
5 Business Trust Fund, if created by law, and enter into
6 memorandums of understanding with local governmental entities
7 and political subdivisions within the state, for the purpose
8 of allowing minority business enterprises and small business
9 enterprises that are certified with these entities to
10 participate in the construction and business management
11 training, financial assistance, and bonding assistance
12 program, as provided for in this section.

13 (4) Annually, the Small Business and Economic
14 Development Office shall report the progress of this program
15 to the Commission on Small Business and Economic Development.
16 The report must include, as a minimum, the number of users of
17 the bond guarantee plan, along with the number of defaults and
18 dollar loss to the state; the number of students participating
19 in the management and technical assistance program, listed by
20 location; the number of program participants, categorized by
21 ethnicity; the number of program participants that received
22 state contracts; and the cost of the program, categorized by
23 cost of administration, the cost of instruction on-the-job and
24 in classrooms, and the cost of supplies.

25 Section 10. Section 287.0946, Florida Statutes, is
26 created to read:

27 287.0946 Small business and minority business
28 enterprise linked-deposit program.--

29 (1) The Commission on Small Business and Economic
30 Development may create a small and minority business
31 enterprise linked-deposit program to encourage financial

1 institutions to increase the volume of loans made to small
2 business enterprises and minority business enterprises to
3 encourage the development of small and minority businesses.

4 (2) As used in this section, the term:

5 (a) "Commission" means the Commission on Small
6 Business and Economic Development.

7 (b) "Eligible borrower" means a minority business
8 enterprise that is certified by the statewide reciprocal
9 certification process or a small business enterprise certified
10 by the Small Business and Economic Development Office under
11 ss. 287.0942 and 287.088.

12 (c) "Treasurer" means the Insurance Commissioner and
13 Treasurer.

14 (3) Notwithstanding the provisions of s. 18.10, the
15 Treasurer shall designate, for the duration of the small and
16 minority business enterprise linked-deposit program, \$15
17 million of the state's short-term treasury deposits for
18 deposit in participating financial institutions, except that
19 the Treasurer may not deposit more than \$2 million in any one
20 financial institution participating in the small and minority
21 business linked-deposit program.

22 (4) Participating financial institutions must be
23 qualified public depositories under chapter 280 and must be
24 selected via the bid process employed by the Treasurer in the
25 competitive selection program for certificates of deposit. A
26 bid less than 200 basis points below the prevailing rate for
27 United States Treasury securities with a maturity matching the
28 maturity of the deposit may not be accepted. At any one time,
29 not more than \$15 million dollars may be placed in the small
30 and minority business enterprise linked-deposit program under
31 this section.

1 (5) Participating financial institutions must provide
2 a 100 percent match of any state treasury funds that are
3 deposited within the financial institution as a result of
4 participating in the small and minority business enterprise
5 linked-deposit program. The participating financial
6 institution's share of matching funds shall be used to provide
7 loans to eligible borrowers for working capital, contracts,
8 purchases of supplies or equipment, and the lease of the
9 capital assets, including land, buildings or equipment. The
10 maximum amount of a loan provided under the minority business
11 linked-deposit program is \$250,000.

12 (6) At the recommendation of the Small Business and
13 Economic Development Office, the commission shall order the
14 removal and competitive rebidding of all program deposits at a
15 participating financial institution if a review of the
16 participating financial institution's record under the program
17 demonstrates no improvements relative to the financial
18 institution's preparticipation levels of lending to small and
19 minority business enterprises.

20 (7) The commission shall order the removal and
21 competitive rebidding of all program deposits at a
22 participating institution, if the participating financial
23 institution ceases to be a qualified public depository under
24 chapter 280.

25 (8) The Small Business and Economic Development
26 Office, with assistance from the Department of Banking and
27 Finance, shall compile funding data and provide an annual
28 report to the commission, on March 1 of each year, which
29 contains:

30 (a) The name of the participating financial
31 institutions and the number and amount of loans made to small

1 and minority businesses under the small and minority business
2 enterprise linked-deposit program during the previous calendar
3 year.

4 (b) The average interest rate for small and minority
5 business loans made by each participating financial
6 institution under the program during the previous calendar
7 year.

8 (c) The number of completed small and minority
9 business loan applications that were denied or disapproved
10 during the previous calendar year by each financial
11 institution participating under the program.

12 (d) Recommendations for continuation, expansion,
13 improvement, or expiration of the minority business
14 linked-deposit program in its annual report to the
15 Legislature.

16 (9) This section expires June 30, 2006, and on that
17 date the designated short-term treasury deposits shall be
18 returned to the Treasurer.

19 Section 11. Subsections (6) and (7) of section
20 290.0075, Florida Statutes, are amended to read:

21 290.0075 Enterprise zone linked deposit program.--

22 (6) The Department of Banking and Finance shall
23 provide an annual report to the Governor, the Speaker of the
24 House of Representatives, the President of the Senate, and the
25 Office of Tourism, Trade, and Economic Development prior to
26 March ~~February~~ 1 of each year which contains:

27 (a) The number and amount of loans made to small
28 businesses under this program during the previous calendar
29 year.

30
31

1 (b) The average interest rate for small business loans
2 made by each selected financial institution under this program
3 during the previous calendar year.

4 (c) The number of completed small business loan
5 applications that were denied or disapproved during the
6 previous calendar year by each selected financial institution
7 under this program.

8 (d) Recommendations concerning the continuation,
9 expansion, improvement, or termination of this program.

10 (7) This section expires July 1, 2006 ~~shall stand~~
11 ~~repealed on June 30, 2000, and on that date upon such repeal,~~
12 the designated short-term treasury deposits shall be returned
13 to the Treasurer.

14 Section 12. Subsection (2) of section 17.11, Florida
15 Statutes, is amended to read:

16 17.11 To report disbursements made.--

17 (2) The Comptroller shall also cause to have reported
18 from the state automated management accounting subsystem no
19 less than quarterly the disbursements which agencies made to
20 small businesses, as defined in the Florida Small and Minority
21 Business Assistance Act of 1985; to certified minority
22 business enterprises in the aggregate; and to certified
23 minority business enterprises broken down into categories of
24 minority persons, as well as gender and nationality subgroups.
25 This information shall be made available to the agencies, the
26 Small Minority Business and Economic Development Advocacy and
27 ~~Assistance~~ Office, the Governor, the President of the Senate,
28 and the Speaker of the House of Representatives. Each agency
29 shall be responsible for the accuracy of information entered
30 into the state automated management accounting subsystem for
31 use in this reporting.

1 Section 13. Subsections (1) and (2) of section
2 255.102, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 255.102 Contractor utilization of minority business
5 enterprises.--

6 (1) Agencies shall consider the use of price
7 preferences, weighted preference formulas, or other
8 preferences for construction contracts, as determined
9 appropriate by the Small Minority Business and Economic
10 Development Advocacy and Assistance Office in collaboration
11 with the Department of Management Services to increase
12 minority participation.

13 (2) The Small Minority Business and Economic
14 Development Advocacy and Assistance Office, in collaboration
15 with the Department of Management Services and the State
16 University System, shall adopt rules to determine what is a
17 "good faith effort" for purposes of contractor compliance with
18 minority participation goals established for competitively
19 awarded building and construction projects. Pro forma efforts
20 shall not be considered good faith. Factors which shall be
21 considered by the state agency in determining whether a
22 contractor has made good faith efforts shall include, but not
23 be limited to:

24 (a) Whether the contractor attended any
25 presolicitation or prebid meetings that were scheduled by the
26 agency to inform minority business enterprises of contracting
27 and subcontracting opportunities.

28 (b) Whether the contractor advertised in general
29 circulation, trade association, or minority-focus media
30 concerning the subcontracting opportunities.

31

1 (c) Whether the contractor provided written notice to
2 all relevant subcontractors listed on the minority vendor list
3 for that locality and statewide as provided by the agency as
4 of the date of issuance of the invitation to bid, that their
5 interest in the contract was being solicited in sufficient
6 time to allow the minority business enterprises to participate
7 effectively.

8 (d) Whether the contractor followed up initial
9 solicitations of interest by contacting minority business
10 enterprises, the Small Minority Business and Economic
11 Development Advocacy and Assistance Office, or minority
12 persons who responded and provided detailed information about
13 prebid meetings, access to plans, specifications, contractor's
14 project manager, subcontractor bonding, if any, payment
15 schedule, bid addenda, and other assistance provided by the
16 contractor to enhance minority business enterprise
17 participation.

18 (e) Whether the contractor selected portions of the
19 work to be performed by minority business enterprises in order
20 to increase the likelihood of meeting the minority business
21 enterprise procurement goals, including, where appropriate,
22 breaking down contracts into economically feasible units to
23 facilitate minority business enterprise participation under
24 reasonable and economical conditions of performance.

25 (f) Whether the contractor provided the Small Minority
26 Business and Economic Development Advocacy and Assistance
27 Office as well as interested minority business enterprises or
28 minority persons with adequate information about the plans,
29 specifications, and requirements of the contract or the
30 availability of jobs at a time no later than when such
31 information was provided to other subcontractors.

1 (g) Whether the contractor negotiated in good faith
2 with interested minority business enterprises or minority
3 persons, not rejecting minority business enterprises or
4 minority persons as unqualified without sound reasons based on
5 a thorough investigation of their capabilities or imposing
6 implausible conditions of performance on the contract.

7 (h) Whether the contractor diligently seeks to replace
8 a minority business enterprise subcontractor that is unable to
9 perform successfully with another minority business
10 enterprise.

11 (i) Whether the contractor effectively used the
12 services of available minority community organizations;
13 minority contractors' groups; local, state, and federal
14 minority business assistance offices; and other organizations
15 that provide assistance in the recruitment and placement of
16 minority business enterprises or minority persons.

17 Section 14. Paragraphs (a) and (c) of subsection (2)
18 and paragraphs (b) and (c) of subsection (4) of section
19 287.042, Florida Statutes, 1998 Supplement, are amended to
20 read:

21 287.042 Powers, duties, and functions.--The department
22 shall have the following powers, duties, and functions:

23 (2)(a) To plan and coordinate purchases in volume and
24 to negotiate and execute purchasing agreements and contracts
25 for commodities and contractual services under which state
26 agencies shall make purchases pursuant to s. 287.056, and
27 under which a federal, county, municipality, institutions
28 qualified pursuant to s. 240.605, private nonprofit community
29 transportation coordinator designated pursuant to chapter 427,
30 while conducting business related solely to the Commission for
31 the Transportation Disadvantaged, or other local public agency

1 may make purchases. The department may restrict purchases from
2 some term contracts to state agencies only for those term
3 contracts where the inclusion of other governmental entities
4 will have an adverse effect on competition or to those federal
5 facilities located in this state. In such planning or
6 purchasing the Small Minority Business and Economic
7 Development Advocacy and Assistance Office may monitor to
8 ensure that opportunities are afforded for contracting with
9 minority business enterprises. The department, for state term
10 contracts, and all agencies, for multiyear contractual
11 services or term contracts, shall explore reasonable and
12 economical means to utilize certified minority business
13 enterprises. Purchases by any county, municipality, private
14 nonprofit community transportation coordinator designated
15 pursuant to chapter 427, while conducting business related
16 solely to the Commission for the Transportation Disadvantaged,
17 or other local public agency under the provisions in the state
18 purchasing contracts, and purchases, from the corporation
19 operating the correctional work programs, of products or
20 services that are subject to paragraph (1)(f), are exempt from
21 the competitive sealed bid requirements otherwise applying to
22 their purchases.

23 (c) Any person who files an action protesting a
24 decision or intended decision pertaining to contracts
25 administered by the department or a state agency pursuant to
26 s. 120.57(3)(b) shall post with the department or the state
27 agency at the time of filing the formal written protest a bond
28 payable to the department or state agency in an amount equal
29 to 1 percent of the department's or the state agency's
30 estimate of the total volume of the contract or \$5,000,
31 whichever is less, which bond shall be conditioned upon the

1 payment of all costs which may be adjudged against him or her
2 in the administrative hearing in which the action is brought
3 and in any subsequent appellate court proceeding. For protests
4 of decisions or intended decisions of the department
5 pertaining to agencies' requests for approval of exceptional
6 purchases, the bond shall be in an amount equal to 1 percent
7 of the requesting agency's estimate of the contract amount for
8 the exceptional purchase requested or \$5,000, whichever is
9 less. In lieu of a bond, the department or state agency may,
10 in either case, accept a cashier's check or money order in the
11 amount of the bond. If, after completion of the administrative
12 hearing process and any appellate court proceedings, the
13 agency prevails, it shall recover all costs and charges which
14 shall be included in the final order or judgment, excluding
15 attorney's fees. This section shall not apply to protests
16 filed by the Small Minority Business and Economic Development
17 ~~Advocacy and Assistance~~ Office. Upon payment of such costs and
18 charges by the person protesting the award, the bond,
19 cashier's check, or money order shall be returned to him or
20 her. If the person protesting the award prevails, he or she
21 shall recover from the agency all costs and charges which
22 shall be included in the final order of judgment, excluding
23 attorney's fees.

24 (4) To establish a system of coordinated, uniform
25 procurement policies, procedures, and practices to be used by
26 agencies in acquiring commodities and contractual services,
27 which shall include, but not be limited to:

28 (b) Development of procedures for the releasing of
29 requests for proposals and invitations to bid, which
30 procedures shall include, but not be limited to, publication
31 in the Florida Administrative Weekly or on the Florida

1 Communities Network of notice for requests for proposals at
2 least 28 days before the date set for submittal of proposals
3 and publication of notice for invitations to bid at least 10
4 calendar days before the date set for submission of bids. An
5 agency may waive the requirement for notice in the Florida
6 Administrative Weekly or on the Florida Communities Network.
7 Notice of the request for proposals shall be mailed to
8 prospective offerors at least 28 calendar days prior to the
9 date for submittal of proposals. Notice of the invitation to
10 bid shall be mailed to prospective bidders at least 10
11 calendar days prior to the date set for submittal of bids. The
12 Small Minority Business and Economic Development ~~Advocacy and~~
13 ~~Assistance~~ Office may consult with agencies regarding the
14 development of bid distribution procedures to ensure that
15 maximum distribution is afforded to certified minority
16 business enterprises as defined in s. 288.703.

17 (c) Development of procedures for the receipt and
18 opening of bids or proposals by an agency. Such procedures
19 shall provide the Small Minority Business and Economic
20 Development ~~Advocacy and Assistance~~ Office an opportunity to
21 monitor and ensure that the contract award is consistent with
22 the original request for proposal or invitation to bid, in
23 accordance with s. 287.0945(6), and subject to the review of
24 bid responses within standard timelines.

25 Section 15. Subsection (5) and paragraph (a) of
26 subsection (6) of section 287.057, Florida Statutes, 1998
27 Supplement, are amended to read:

28 287.057 Procurement of commodities or contractual
29 services.--

30 (5) Upon issuance of any invitation to bid or request
31 for proposals, an agency shall forward to the department one

1 copy of each invitation to bid or request for proposals for
2 all commodity and contractual services purchases in excess of
3 the threshold amount provided in s. 287.017 for CATEGORY TWO.
4 An agency shall also, upon request, furnish a copy of all
5 competitive sealed bid or competitive sealed proposal
6 tabulations. The Small Minority Business and Economic
7 Development Advocacy and Assistance Office may also request
8 from the agencies any information submitted to the department
9 pursuant to this subsection.

10 (6)(a) In order to strive to meet the minority
11 business enterprise procurement goals set forth in s.
12 287.0945, an agency may reserve any contract for competitive
13 sealed bidding only among certified minority business
14 enterprises. Agencies shall review all their contracts each
15 fiscal year and shall determine which contracts may be
16 reserved for bidding only among certified minority business
17 enterprises. This reservation may only be used when it is
18 determined, by reasonable and objective means, before the
19 invitation to bid that there are capable, qualified certified
20 minority business enterprises available to bid on a contract
21 to provide for effective competition. The Small Minority
22 Business and Economic Development Advocacy and Assistance
23 Office shall consult with any agency in reaching such
24 determination when deemed appropriate.

25 Section 16. Subsections (1), (5), and (6) of section
26 287.0947, Florida Statutes, are amended to read:

27 287.0947 Florida Council on Small and Minority
28 Business Development; creation; membership; duties.--

29 (1) On or after October 1, 1996, the Commission on
30 Small Business and Economic Development ~~secretary of the~~
31 ~~Department of Labor and Employment Security~~ may create the

1 Florida Advisory Council on Small and Minority Business
2 Development with the purpose of advising and assisting the
3 executive administrator ~~secretary~~ in carrying out the
4 executive administrator's ~~secretary's~~ duties with respect to
5 minority businesses and economic and business development. It
6 is the intent of the Legislature that the membership of such
7 council include practitioners, laypersons, financiers, and
8 others with business development experience who can provide
9 invaluable insight and expertise for this state in the
10 diversification of its markets and networking of business
11 opportunities. The council shall initially consist of 19
12 persons, each of whom is or has been actively engaged in small
13 and minority business development, either in private industry,
14 in governmental service, or as a scholar of recognized
15 achievement in the study of such matters. Initially, the
16 council shall consist of members representing all regions of
17 the state and shall include at least one member from each
18 group identified within the definition of "minority person" in
19 s. 288.703(3), considering also gender and nationality
20 subgroups, and shall consist of the following:

21 (a) Four members consisting of representatives of
22 local and federal small and minority business assistance
23 programs or community development programs.

24 (b) Eight members composed of representatives of the
25 minority private business sector, including certified minority
26 business enterprises and minority supplier development
27 councils, among whom at least two shall be women and at least
28 four shall be minority persons.

29 (c) Two representatives of local government, one of
30 whom shall be a representative of a large local government,
31

1 and one of whom shall be a representative of a small local
2 government.

3 (d) Two representatives from the banking and insurance
4 industry.

5 (e) Two members from the private business sector,
6 representing the construction and commodities industries.

7 (f) The chairperson of the Florida Black Business
8 Investment Board or the chairperson's designee.

9 (g) The chairperson of Enterprise Florida, Inc., or
10 the chairperson's designee.

11 (h) The Secretary of the Department of Community
12 Affairs or the secretary's designee.

13

14 A candidate for appointment may be considered if eligible to
15 be certified as an owner of a minority business enterprise, or
16 if otherwise qualified under the criteria above. Vacancies may
17 be filled by appointment of the executive administrator
18 ~~secretary~~, in the manner of the original appointment.

19 (5) The powers and duties of the council include, but
20 are not limited to: researching and reviewing the role of
21 small and minority businesses in the state's economy;
22 reviewing issues and emerging topics relating to small and
23 minority business economic development; studying the ability
24 of financial markets and institutions to meet small business
25 credit needs and determining the impact of government demands
26 on credit for small businesses; assessing the implementation
27 of s. 187.201(22), requiring a state economic development
28 comprehensive plan, as it relates to small and minority
29 businesses; assessing the reasonableness and effectiveness of
30 efforts by any state agency or by all state agencies
31 collectively to assist minority business enterprises; and

1 advising the Governor, the executive administrator ~~secretary~~,
2 and the Legislature on matters relating to small and minority
3 business development which are of importance to the
4 international strategic planning and activities of this state.

5 (6) On or before January 1 of each year, the council
6 shall present an annual report to the executive administrator
7 ~~secretary~~ that sets forth in appropriate detail the business
8 transacted by the council during the year and any
9 recommendations to the executive administrator ~~secretary~~,
10 including those to improve business opportunities for small
11 and minority business enterprises.

12 Section 17. Subsections (5), (6), and (8) of section
13 288.703, Florida Statutes, 1998 Supplement, are amended to
14 read:

15 288.703 Definitions.--As used in this act, the
16 following words and terms shall have the following meanings
17 unless the content shall indicate another meaning or intent:

18 (5) "Commission"~~"Department"~~means the Commission on
19 Small Business and Economic Development ~~Department of Labor~~
20 ~~and Employment Security~~.

21 (6) "Ombudsman" means an office or individual whose
22 responsibilities include coordinating with the Small Minority
23 Business and Economic Development ~~Advocacy and Assistance~~
24 Office for the interests of and providing assistance to small
25 and minority business enterprises in dealing with governmental
26 agencies and in developing proposals for changes in state
27 agency rules.

28 (8) "Executive administrator"~~"Secretary"~~means the
29 executive administrator of the Commission on Small Business
30 and Economic Development ~~secretary of the Department of Labor~~
31 ~~and Employment Security~~.

1 Section 18. Paragraph (a) of subsection (3) of section
2 288.707, Florida Statutes, is amended to read:

3 288.707 Florida Black Business Investment Board.--

4 (3) There is hereby created within the Office of
5 Tourism, Trade, and Economic Development a body politic and
6 corporate to be known as the Florida Black Business Investment
7 Board, hereinafter referred to as the "board." The board is
8 hereby constituted a public instrumentality, and the exercise
9 by the board of the powers conferred by ss. 9-21, chapter
10 85-104, Laws of Florida, shall be deemed to be the performance
11 of an essential governmental function.

12 (a) The board shall consist of eleven ~~seven~~ members
13 appointed by the Governor subject to confirmation by the
14 Senate, six of whom shall be experienced in investment finance
15 and business development, three of whom shall be
16 representatives of entities each of which shall have invested
17 an aggregate amount of no less than \$500,000 in black business
18 investment corporations, one of whom must be a member of a
19 black business investment corporation, and one of whom shall
20 be a representative of a state certified minority business
21 enterprise. The chair of the Florida Development Finance
22 Corporation, created pursuant to s. 288.9604, shall be an ex
23 officio member of the board.

24 Section 19. Paragraph (1) is added to subsection (3)
25 of section 288.901, Florida Statutes, to read:

26 288.901 Enterprise Florida, Inc.; creation;
27 membership; organization; meetings; disclosure.--

28 (3) Enterprise Florida, Inc., shall be governed by a
29 board of directors. The board of directors shall consist of
30 the following members:

31

1 (1) The chairperson of the Florida Black Business
2 Investment Board.

3 Section 20. Subsection (1) of section 288.9015,
4 Florida Statutes, is amended to read:

5 288.9015 Enterprise Florida, Inc.; purpose; duties.--

6 (1) Enterprise Florida, Inc., is the principal
7 economic development organization for the state. It shall be
8 the responsibility of Enterprise Florida, Inc., to provide
9 leadership for business development in Florida by aggressively
10 establishing a unified approach to Florida's efforts of
11 international trade and reverse investment; by aggressively
12 marketing the state as a probusiness location for potential
13 new investment; and by aggressively assisting in the creation,
14 retention, and expansion of existing businesses. In support
15 of this effort, Enterprise Florida, Inc., may develop and
16 implement specific programs or strategies that address the
17 creation, expansion, and retention of Florida business,
18 including small and minority businesses; the development of
19 import and export trade; and the recruitment of worldwide
20 business.

21 Section 21. Subsection (2) and paragraph (b) of
22 subsection (3) of section 288.905, Florida Statutes, are
23 amended to read:

24 288.905 Duties of the board of directors of Enterprise
25 Florida, Inc.--

26 (2) The board of directors shall, in conjunction with
27 the Office of Tourism, Trade, and Economic Development, the
28 Florida Black Business Investment Board, and the Small
29 Business and Economic Development Office, develop a strategic
30 plan for economic development for the State of Florida. Such
31 plan shall be submitted to the Governor, the President of the

1 Senate, the Speaker of the House of Representatives, the
2 Senate Minority Leader, and the House Minority Leader by
3 January 1, 1997, and shall be updated or modified before
4 January 1, 1998, and annually thereafter. The plan must be
5 approved by the board of directors prior to submission to the
6 Governor and Legislature. The plan shall include, but is not
7 limited to:

8 (a) Allocation of public and private resources to
9 specific activities that will return the greatest benefit to
10 the economy of this state. Including delineation on the amount
11 of funds that should be expended on each component of the
12 plan.

13 (b) Identification of programs that will enhance the
14 capabilities of small and minority businesses. The plan
15 should include ways to improve and increase the access to
16 information, services, and assistance for small and minority
17 businesses.

18 (c)1. Specific provisions for the stimulation of
19 economic development and job creation in rural areas and
20 midsize cities and counties of the state. These provisions
21 shall include, but are not limited to, the identification of
22 all rural counties in the state and rural cities located in
23 nonrural counties; the identification of all midsize cities
24 and counties in the state; the identification of the economic
25 development and job creation goals of the rural cities and
26 counties and midsize cities; the identification of rural areas
27 of critical concern; the identification of specific local,
28 state, and federal financial and technical assistance
29 resources available to rural cities and counties and midsize
30 cities and counties for economic and community development;
31 the identification of private sector resources available to

1 rural cities and counties and midsize cities and counties for
2 economic and community development; and specific methods for
3 the use of the resources identified in the plan to meet the
4 goals identified in the plan.

5 2. Enterprise Florida, Inc., shall involve the local
6 governments of the cities and counties identified pursuant to
7 subparagraph 1., as well as any other local, state, and
8 federal rural development entities, both public and private,
9 in developing and carrying out any provisions.

10 (d)1. Specific provisions for the stimulation of
11 economic development and job creation in small businesses and
12 minority businesses. These provisions shall include, but are
13 not limited to, the identification of federal, state, and
14 local financial and technical resources available for small
15 businesses and minority businesses; the identification of
16 economic development and job creation goals for small and
17 minority businesses; the identification of private sector
18 resources available to small and minority businesses; the
19 development, in consultation with the Florida Black Business
20 Investment Board and the Small Business and Economic
21 Development Office, of a comprehensive strategic development
22 plan that will provide maximum practical opportunity for
23 economic growth of black-owned and other minority businesses
24 in this state;and specific methods for the use of the
25 resources identified in the plan to meet the goal of job
26 creation in small businesses and minority businesses in the
27 state.

28 2. Enterprise Florida, Inc., shall involve local,
29 state, and federal small business and minority business
30 development agencies and organizations, both public and
31 private, in developing and carrying out any provisions.

1 (e) Creation of workforce training programs that lead
2 to better employment opportunities and higher wages.

3 (f) Promotion of business formation, expansion,
4 recruitment, and retention, including programs that enhance
5 access to appropriate forms of financing for businesses in
6 this state, including small and minority-owned businesses.

7 (g) Promotion of the successful long-term
8 internationalization of this state, including programs that
9 establish viable overseas markets, generate foreign
10 investment, assist in meeting the financing requirements of
11 export-ready firms, broaden opportunities for international
12 joint venture relationships, use the resources of academic and
13 other institutions, coordinate trade assistance and
14 facilitation services, and facilitate availability of and
15 access to education and training programs which will assure
16 requisite skills and competencies necessary to compete
17 successfully in the global marketplace and promote the use of
18 small and minority businesses in this state.

19 (h) Promotion of the growth of high technology and
20 other value-added industries and jobs.

21 (i) Addressing the needs of blighted inner-city
22 communities that have unacceptable levels of unemployment and
23 economic disinvestment, with the ultimate goal of creating
24 jobs for the residents of such communities.

25 (j) Identifying business sectors that are of current
26 or future importance to the state's economy and to the state's
27 worldwide business image, and developing specific strategies
28 to promote the development of such sectors.

29 (3)

30 (b) The performance standards and measurable outcomes
31 established and regularly reviewed by Enterprise Florida,

1 Inc., under this subsection must also include benchmarks and
2 goals to measure the impact of state economic development
3 policies and programs and to assess the progress of small and
4 minority businesses in this state. Such benchmarks and goals
5 may include, but are not limited to:

6 1. Net annual job growth rate in this state compared
7 to neighboring southern states and the United States as a
8 whole.

9 2. Unemployment rate in this state compared to
10 neighboring southern states and the United States as a whole.

11 3. Wage distribution based on the percentage of people
12 working in this state who earned 15 percent below the state
13 average, within 15 percent of the state average, and 15
14 percent or more above the state average.

15 4. Annual percentage of growth in the production of
16 goods and services within Florida compared to neighboring
17 southern states and the United States as a whole.

18 5. Changes in jobs in this state by major industry
19 based on the percentage of growth or decline in the number of
20 full-time or part-time jobs in this state.

21 6. Number of new business startups in this state.

22 7. Goods produced in this state that are exported to
23 other countries.

24 8. Capital investment for commercial and industrial
25 purposes, agricultural production and processing, and
26 international trade.

27 Section 22. Paragraph (d) of subsection (1) of section
28 288.906, Florida Statutes, is amended to read:

29 288.906 Annual report of Enterprise Florida, Inc.;
30 audits; confidentiality.--

31

1 (1) Prior to December 1 of each year, Enterprise
2 Florida, Inc., shall submit to the Governor, the President of
3 the Senate, the Speaker of the House of Representatives, the
4 Senate Minority Leader, and the House Minority Leader a
5 complete and detailed report including, but not limited to:

6 (d) A description of the operations and
7 accomplishments of Enterprise Florida, Inc., and its boards,
8 with respect to furthering the development and viability of
9 small and minority businesses, including any accomplishments
10 relating to capital access and technology and domestic and
11 international business development programs.

12
13 The detailed report required by this subsection shall also
14 include the information identified in paragraphs (a)-(h), if
15 applicable, for any board established within the corporate
16 structure of Enterprise Florida, Inc.

17 Section 23. Paragraphs (g) and (h) of subsection (2)
18 of section 288.9412, Florida Statutes, are amended to read:

19 288.9412 International Trade and Economic Development
20 Board.--

21 (2) The International Trade and Economic Development
22 Board shall be governed by a board of directors. The board of
23 directors shall consist of the following members:

24 (g) Members to be appointed by the Governor, subject
25 to confirmation by the Senate, consisting of the following:

26 1. The chairperson of the World Trade Association of
27 Florida or the chairperson's designee.

28 2. Two representatives from the state's deepwater
29 ports, chosen from a list of three names submitted to the
30 Governor by the Florida Ports Council. One representative
31

1 shall be from the Gulf of Mexico coast ports, and one
2 representative shall be from the Atlantic coast ports.

3 3. The chairperson of the Florida Airport Managers
4 Association or the chairperson's designee.

5 4. The chairperson of the Florida Custom Brokers and
6 Forwarders Association or the chairperson's designee.

7 5. A person having extensive experience in foreign
8 language instruction or international education.

9 6. The chairperson of the International Law Section of
10 The Florida Bar or the chairperson's designee.

11 7. The chairperson of the Florida International
12 Banking Association or the chairperson's designee.

13 8. A representative of a company in this state that is
14 actively engaged in the manufacture of products in this state
15 for sale in foreign markets.

16 9. A member of the Florida Citrus Commission
17 experienced in the exportation of citrus products who owns,
18 operates, or is employed by a major company in this state that
19 is actively engaged in the exportation of citrus products from
20 this state to international markets.

21 10. A representative of a major multinational company
22 with offices in this state.

23 11. The chairperson of the Latin Chamber of Commerce
24 of the United States or the chairperson's designee.

25 12. The chairperson of the Florida Black Business
26 Investment Board or the chairperson's designee.

27 (h) Nine to 11 members from the public and private
28 sector, consisting of one member representing a municipal
29 economic development organization, one member representing a
30 county economic development organization, one member
31 representing a regional economic development organization, one

1 member representing an international economic development
2 organization, one member representing a minority-owned
3 business, and one member who, at the time of appointment, is a
4 board member of a community development corporation that meets
5 the requirements of s. 290.035, with the remaining members
6 representing, and being actively involved in, Florida
7 business, who shall be appointed by the Governor, subject to
8 Senate confirmation.

9 Section 24. Subsection (3) of section 288.9414,
10 Florida Statutes, is amended to read:

11 288.9414 Powers and authority of board of directors of
12 International Trade and Economic Development Board.--

13 (3) Develop intensive export assistance programs for
14 small and medium-sized export firms, including minority-owned
15 businesses. The partnership, through Enterprise Florida,
16 Inc., may enter into contractual relations with export-ready
17 firms and may impose fees or other charges for services
18 provided.

19 Section 25. Paragraph (c) of subsection (2) of section
20 288.9611, Florida Statutes, is amended to read:

21 288.9611 Capital development board; creation, purpose,
22 membership.--

23 (2) The capital development board shall be governed by
24 a board of directors. The board of directors shall consist of
25 the following members:

26 (c) Nine to 11 members from the public and private
27 sector consisting of, but not limited to, at least three
28 representatives of the commercial banking industry, a
29 representative of the venture capital industry, an economic
30 development professional, the chairperson of the Florida Black
31 Business Investment Board or the chairperson's designee, and a

1 manufacturing industry representative, who shall be appointed
2 by the Governor from a list of nominees as provided herein,
3 subject to Senate confirmation.

4 Section 26. Subsection (1) of section 288.9613,
5 Florida Statutes, is amended to read:

6 288.9613 Powers and authority of the capital
7 development board.--The capital development board shall have
8 all the powers and authority, not explicitly prohibited by
9 statute, necessary or convenient to carry out and effectuate
10 the purposes of this act, as well as the functions, duties,
11 and responsibilities of the board, including, but not limited
12 to, the following:

13 (1) Advise and assist in the formulation and
14 coordination of the state's economic development policy
15 regarding capital availability for the formation, growth, and
16 development of firms critical to achieve the purposes of the
17 capital board, including small and minority-owned businesses,
18 as stated in this act and consistent with the policies of the
19 board of directors of Enterprise Florida, Inc.

20 Section 27. Section 288.9614, Florida Statutes, is
21 amended to read:

22 288.9614 Authorized programs.--The capital development
23 board may take any action that it deems necessary to achieve
24 the purposes of this act in partnership with private
25 enterprises, public agencies, and other organizations,
26 including, but not limited to, efforts to address the
27 long-term debt needs of small-sized and medium-sized firms and
28 small and minority-owned businesses, to address the needs of
29 microenterprises, to expand availability of venture capital,
30 and to increase international trade and export finance

31

1 opportunities for firms critical to achieving the purposes of
2 this act.

3 Section 28. This act shall take effect July 1, 1999.

4

5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1684

8 This committee substitute increases the Board of Directors of
9 Enterprise Florida, Inc., the International Trade and Economic
10 Development Board of Enterprise Florida, Inc., and the Capital
11 Development Board of Enterprise Florida, Inc., to include the
12 chairperson of the Florida Black Business Investment Board. A
13 member representing a minority-owned business is also added to
14 the membership of the Board of Directors of the International
15 Trade and Economic Development Board of Enterprise Florida,
16 Inc.

17 This committee substitute requires Enterprise Florida, Inc.,
18 to include small and minority businesses in its development of
19 programs to address the creation of Florida businesses.

20 This committee substitute includes references to the Florida
21 Black Business Investment Board in provisions relating to the
22 strategic plan of Enterprise Florida Board of Directors.
23 Additionally, the strategic plan itself is expanded to
24 include: the identification of economic development and job
25 creation goals for small and minority businesses; the
26 identification of private sector resources available to small
27 and minority businesses; and the development, in consultation
28 with the Florida Black Business Investment Board and the Small
29 Business and Economic Development Office, of a comprehensive
30 strategic development plan that will provide maximum
31 opportunity for economic growth of black-owned and other
minority businesses in Florida. Further, Enterprise Florida,
Inc., must include in performance outcomes and measures the
progress of small and minority business in the state.

23 This committee substitute requires the inclusion in the annual
24 report of Enterprise Florida, Inc., of a description with
25 respect to furthering the development and viability of small
26 and minority businesses, including accomplishments relating to
27 capital access and technology and domestic and international
28 business development programs.

29 This committee substitute includes minority-owned businesses
30 in the targeted group for intensive export assistance
31 programs, and includes small and minority-owned businesses as
firms considered critical in achieving the state's policy of
economic development regarding capital availability for the
firms' growth and development, and as firms targeted by the
capital development board's efforts to address the capital
needs of such firms.

31