

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1772

SPONSOR: Commerce and Economic Opportunities Committee and Senator Diaz de la Portilla

SUBJECT: Black Business Investment Board

DATE: April 12, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Joseph	Maclure	CM	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	GO	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute transforms the Black Business Investment Board (BBIB or board) into a public-private partnership similar to other such partnerships under the Office of Tourism, Trade, and Economic Development (OTTED). The committee substitute establishes a partnership between the public sector and the private sector that seeks to leverage the provision of state funds with funds and other resources from private-sector businesses and other nonstate sources. The BBIB would become a not-for-profit corporation and would enter into a performance-based contract with OTTED.

This committee substitute provides that the Department of Management Services (DMS) shall establish a lease-agreement program under which an employee of the board may elect to retain status as a state employee, including the right to participate in the Florida Retirement System, until June 30, 2003. Any employee who participates in the lease agreement must work under the direct supervision of the board.

This committee substitute provides a legislative finding that the business-development needs of black business enterprises are shared by other minority business enterprises and provides the intent of the Legislature that the board and the black business investment corporations must include minority business enterprises within the scope of their activities and must report to the Governor and the Legislature on their progress in assisting black business enterprises and minority business enterprises.

This committee substitute provides for board membership; requires BBIB to provide a return on investment report; and requires BBIB to adopt an operating budget that includes private sector support that increases each year until the amount of private sector support is equal to the state's investment. This committee substitute changes the title of the "Executive Director" to the

“President” and requires the president to serve at the pleasure of the board and provides the board with the power to establish and adjust the compensation of the president.

This committee substitute requires EFI where practicable and consistent with the expertise of the board to contract with the board for the delivery of services in fulfillment of the responsibilities of EFI relating to small and minority businesses.

This committee substitute amends the following sections of the Florida Statutes: 288.707, 288.708, 288.709, 288.7091, 288.711, 288.712, 288.714, and 288.9015.

This committee substitute creates ss. 288.7075 and 288.7092, F.S.

II. Present Situation:

The Florida Black Business Investment Board (BBIB or board) was established by the Florida Legislature under the Small Business Assistance Act of 1985. It is created within the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) under ch. 288, F.S.

The board consists of seven members appointed by the Governor, six of whom need to be experienced in investment finance and business development, one of which must be a member of a Black Business Investment Corporation (BBIC). The chair of the Florida Development Finance Corporation is an ex-officio member of the board (s. 288.707(3), F.S.).

Under s. 288.707, F.S., the BBIB was created to be a catalyst for the development of competitive black business enterprises in the state of Florida by: increasing opportunities for employment of blacks, as well as the population in general; providing role models and establishing business networks for the benefit of future generations of aspiring black entrepreneurs; strengthening the economy of the state by increasing the number of qualified black business enterprises; and increasing access to both debt and equity capital for black business enterprises.

Since it is created within and administered by the Governor’s office, the BBIB operates differently from the other public-private partnerships under OTTED. While overseen by a board comprised of private sector individuals, the BBIB’s staff of six are employed directly by the Governor’s office and constitute the support corporation. The Florida Black Business Support Corporation is a non-profit corporation under s. 501(c)(3) of the Internal Revenue Code, which administers technical assistance programs and coordinates events to promote the flow of information to BBIB program participants and the Florida business community at large. It was established as a nonprofit organization to allow it to receive tax-deductible contributions that defray a portion of its operating costs and lessen its reliance on public funding. The BBIB is the sole shareholder/member of the support corporation. BBIB financial transactions are managed by the Governor’s office, and records of BBIB expenditures are kept by the Governor’s office. The board is required to submit an annual report by March 31, each year.

The Florida Contractor’s Cooperative was established to promote an increase in the number of viable disadvantaged business enterprises that are engaged in construction contracting, and to promote the general welfare and the capitalization of those businesses. Initially, this program was operated by the BBIB, but in 1997, the BBIB expanded the target market of this program

and outsourced the administration of the program to the National Council of Contractors Association (NCCA). Following the expiration of the NCCA agreement in March 1998, the management contract for BBIB binding and surety services was awarded to First Coast Black Business Investment Corporation, Inc.

Black Business Investment Corporations

The Black Business Investment Corporations (BBICs or corporations) are defined as a subsidiary of a financial institution or a consortium of financial institutions investing in, or lending to, black business enterprises. Under s. 288.7091, F.S., the board must create certification criteria for BBICs to include administrative capacity, fiduciary controls, and, in the case of existing BBICs, solvency and soundness of prior loan decisions. The board must establish, in communities that are not currently served by an existing black business investment corporation, memoranda of understanding with local financial institutions that will provide loan guarantees for loans to black business enterprises. The duties of the BBICs are provided under s. 288.7095, F.S., and require the corporations to coordinate with Enterprise Florida, Inc., and OTTED to avoid duplication, and to develop local business and the necessary infrastructure for business support.

The statewide BBIC was established to service black business enterprises in the 37 counties located outside of the service areas of the regional BBICs, as well as to supplement the activity of the regional BBICs.

III. Effect of Proposed Changes:

This committee substitute transforms the Black Business Investment Board (BBIB or board) into a public-private partnership similar to other such partnerships under the Office of Tourism, Trade, and Economic Development (OTTED). The committee substitute establishes a partnership between the public sector and the private sector that seeks to leverage the provision of state funds with funds and other resources from private-sector businesses and other nonstate sources. As a public-private partnership, the six BBIB staff positions would be transferred out of the Executive Office of the Governor's budget and the board would enter into a performance-based contract with OTTED. The BBIB would become a not-for-profit corporation and would enter into a performance-based contract with OTTED.

This committee substitute provides that the Department of Management Services (DMS) shall establish a lease-agreement program (similar to that maintained with Enterprise Florida, Inc.) under which an employee of the BBIB may elect to retain status as a state employee, including the right to participate in the Florida Retirement System, until June 30, 2003. Any employee who participates in the lease agreement must work under the direct supervision of the board, and DMS must establish the terms and conditions of this lease program.

This committee substitute provides a legislative finding that the business-development needs of black business enterprises are shared by other minority business enterprises and, therefore, provides the intent of the Legislature that the board and the Black Business Investment Corporations (BBICs or corporations) must include minority business enterprises within the scope of their duties, responsibilities, and activities and report to the Governor and the Legislature on their progress in assisting black business enterprises and minority business

enterprises. The committee substitute further requires that the board report by January 1, 2003, to the Legislature on what efforts were made to include all minorities within the scope of activities overseen by the board and the BBICs.

This committee substitute requires Enterprise Florida, Inc. (EFI), where practicable and consistent with the expertise of the board, to contract with the board for the delivery of services in fulfillment of the responsibilities of EFI relating to small and minority businesses.

This committee substitute provides the membership of the board to include:

- Six appointees by the Governor who shall serve terms of 4 years;
- One private sector appointee by the President of the Senate, who must be experienced in investment finance and business development and who shall serve a term of 2 years;
- One private sector appointee by the Speaker of the House of Representatives who must be experienced in investment finance and business development and who shall serve a term of 2 years;
- Three representatives of BBIC who are to be selected from among and by the chairmen of the BBICs and who will serve for a term of two years but shall be eligible for reappointment;
- The vice chairman of EFI or his or her designee, who shall be an ex-officio, non-voting member, and who shall provide information, advice, and guidance designed to enhance the coordination of activities of EFI and the board; and
- The chair of the Florida Development Finance Corporation, who shall be an ex-officio, non-voting member of the board.

This committee substitute changes the title of the “executive director” to the “president,” requires the president to serve at the pleasure of the board, and provides the board with the power to establish and adjust the compensation of the president. The board may also delegate to its president those powers and responsibilities it deems appropriate, except for the appointment of the president. The board and its officers shall be responsible for the prudent use of all public and private funds and shall ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements. This committee substitute removes the board’s power to adopt rules but provides it with the power to adopt policies or bylaws. The duties of the board are expanded to ensure that any appropriations by the Legislature on behalf of the BBICs are provided to the corporations in the manner or amount prescribed by the Legislature, and the board is required to work with EFI and local economic development organizations to promote the retention and expansion of existing black business enterprises and to promote the formation and recruitment of new black business enterprises.

This committee substitute requires the board to maximize the return on investment of public funds and to maximize private sector support. The board must adopt for each upcoming fiscal year an operating budget for the organization that specifies the intended uses of the state’s operating investment, other sources of income, and a plan for securing private sector support to the board. Each fiscal year private sector support to the board shall increase as follows:

- 50 percent of the state's investment by July 1, 2002;
- 60 percent of the state's investment by July 1, 2003;
- 70 percent of the state's investment by July 1, 2004;
- 80 percent of the state's investment by July 1, 2005; and
- 100 percent of the state's investment by July 1, 2006.

This private sector support in operating the board includes: cash; cash jointly raised by the board and other organizations; cash generated by products or services of the board; or in-kind contributions directly to the board. The board must fully comply with performance measures, standards, and sanctions in its contracts with OTTED. As part of its annual report, the board must provide the Legislature with return-on-investment information and may hire a private accounting firm or an economic analysis firm to develop the methodology for establishing and reporting return on investment and to certify whether the applicable statements in the annual report comply with these provisions. The due date of the annual report is moved from March 31, to February 1, and a copy must be submitted to OTTED.

This committee substitute appropriates the sum of \$17.5 million from the General Revenue Fund in FY 2001-2002 for use by the board as follows:

- \$16 million shall be divided equally among, and distributed by the board to, the black business investment corporations existing in this state on the effective date of this act;
- \$1 million shall be for use by the board for capitalizing programs of the board in support of black business enterprises and for facilitating the creation of black business investment corporations in communities that are not currently served by an existing black business investment corporation; and
- \$500,00 shall be for use by the board for its operations.

This committee substitute provides an effective date of July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This committee substitute transforms the Black Business Investment Board (BBIB or board) into a public-private partnership, with the BBIB becoming a not-for-profit corporation. A number of changes to the board will have indeterminate effects on the private businesses that make use of the services and funding that are developed and provided by the board to its regional organizations.

This committee substitute requires the board to adopt an operating budget that includes private sector support that increases each year until the amount of private support is equal to the state's investment.

C. Government Sector Impact:

This committee substitute appropriates the sum of \$17.5 million from the General Revenue fund in FY 2001-2002 for use by the BBIB as follows:

- \$16 million shall be divided equally among, and distributed by the board to, the black business investment corporations existing in this state on the effective date of this act;
- \$1 million shall be for use by the board for capitalizing programs of the board in support of black business enterprises and for facilitating the creation of black business investment corporations in communities that are not currently served by an existing black business investment corporation; and
- \$500,00 shall be for use by the board for its operations.

This committee substitute transforms the BBIB into a public-private partnership similar to other partnerships under the Office of Tourism, Trade, and Economic Development (OTTED). As a public-private partnership, the six BBIB staff positions would be transferred out of the Executive Office of the Governor's budget and the board would enter into a performance-based contract with OTTED.

This committee substitute requires the Department of Management Services (DMS) to establish a lease-agreement program under which an employee of the BBIB may elect to retain status as a state employee, including the right to participate in the Florida Retirement System, until June 30, 2003. Any employee who participates in the lease agreement must work under the direct supervision of the board, and DMS must establish the terms and conditions of this lease program.

This committee substitute requires Enterprise Florida, Inc. (EFI), where practicable and consistent with the expertise of the BBIB, to contract with the board for the delivery of services in fulfillment of the responsibilities of EFI relating to small and minority businesses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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