

By the Committee on Commerce and Economic Opportunities; and
Senator Diaz de la Portilla

310-1827-01

1 A bill to be entitled
2 An act relating to the Florida Black Business
3 Investment Board; amending s. 288.707, F.S.;
4 revising legislative findings regarding the
5 creation and growth of black business
6 enterprises; providing that the board shall be
7 a not-for-profit corporation and not an entity
8 of state government; revising provisions
9 relating to appointment and number of board
10 members, compensation of board members, the
11 president and employees, and financial
12 disclosure by board members; providing for
13 board meetings; authorizing the board to
14 appoint at-large members; creating s. 288.7075,
15 F.S.; providing legislative findings that the
16 needs of black business enterprises are shared
17 by other minority business enterprises;
18 expressing the intent of the Legislature that
19 the Black Business Investment Board and the
20 black business investment corporations include
21 minority business enterprises within the scope
22 of their duties, responsibilities, and
23 activities and report on their progress in
24 assisting such business enterprises; amending
25 s. 288.708, F.S.; revising provisions relating
26 to appointment of the executive director;
27 renaming the position of "executive director"
28 as "president"; providing for the appointment
29 and compensation of the president; providing
30 for delegation of powers and responsibilities
31 to the president; prescribing the board's

1 responsibilities regarding use of funds;
2 providing requirements regarding employees'
3 compensation; amending s. 288.709, F.S.;
4 replacing references to board rulemaking with
5 references to the adoption of policies;
6 amending s. 288.7091, F.S.; revising provisions
7 relating to duties of the board regarding
8 developing memoranda of understanding with
9 certain entities and increasing the number of
10 black business enterprises in construction
11 projects; requiring the board to ensure that
12 certain appropriations are distributed
13 properly, to conduct certain economic
14 development activities, and to facilitate
15 creation of black business investment
16 corporations; creating s. 288.7092, F.S.;
17 providing intent regarding operation of the
18 board and return on investment; defining the
19 state's operating investment in the board;
20 directing the board to adopt an annual
21 operating budget; providing requirements
22 regarding private-sector support; providing
23 requirements regarding board compliance with
24 performance measures; providing for a report;
25 requiring that the board hire a private
26 accounting firm or economic analysis firm and
27 providing its duties; amending ss. 288.711 and
28 288.712, F.S.; conforming provisions; amending
29 s. 288.714, F.S.; revising the list of persons
30 to whom the board's annual report is submitted;
31 revising the due date for such report;

1 clarifying references to ss. 288.707-288.714,
2 F.S.; establishing a program to lease state
3 employees to the Black Business Investment
4 Board; prescribing duties of the Department of
5 Management Services related to such leasing
6 program; providing terms and conditions of such
7 leasing program; amending s. 288.9015, F.S.;
8 revising duties of Enterprise Florida, Inc.,
9 relating to small and minority businesses;
10 directing Enterprise Florida, Inc., to contract
11 with the Black Business Investment Board under
12 certain conditions; requiring the Black
13 Business Investment Board to complete a report
14 on the inclusion of all minorities in the
15 activities of the board and the black business
16 investment corporations; providing
17 appropriations; providing an effective date.

18

19 Be It Enacted by the Legislature of the State of Florida:

20

21 Section 1. Section 288.707, Florida Statutes, is
22 amended to read:

23 288.707 Florida Black Business Investment Board.--

24 (1) The Legislature finds that the public interest of
25 Florida will be served by the creation and growth of black
26 business enterprises by:

27 (a) Establishing a partnership between the public
28 sector and the private sector which seeks to leverage the
29 provision of state funds with funds and other resources from
30 private-sector businesses and other nonstate sources.

31

1 **(b)**~~(a)~~ Increasing opportunities for employment of
2 blacks, as well as the population in general;

3 **(c)**~~(b)~~ Providing role models and establishing business
4 networks for the benefit of future generations of aspiring
5 black entrepreneurs;

6 **(d)**~~(c)~~ Strengthening the economy of the state by
7 increasing the number of qualified black business enterprises,
8 which in turn will increase competition in the marketplace and
9 improve the welfare of economically depressed neighborhoods;
10 and

11 **(e)**~~(d)~~ Taking measures to increase access of black
12 businesses to both debt and equity capital.

13 (2) For the purposes of ss. 288.707-288.714 ~~9-21,~~
14 ~~chapter 85-104, Laws of Florida:~~

15 (a) "Black business enterprise" means any business
16 concern which is organized to engage in commercial
17 transactions and which is at least 51 percent owned by one or
18 more black Americans as defined in s. 288.703 and whose
19 management and daily operations are controlled by such
20 persons.

21 (b) "Black business investment corporation" means a
22 subsidiary of a financial institution or a consortium of
23 financial institutions investing in, or lending to, black
24 business enterprises.

25 (c) "Consortium" means two or more financial
26 institutions which jointly negotiate and agree to provide
27 assistance to black business enterprises as provided in ss.
28 288.707-288.714 ~~9-21, chapter 85-104, Laws of Florida.~~

29 (3) There is hereby created a not-for-profit
30 corporation ~~within the Office of Tourism, Trade, and Economic~~
31 ~~Development a body politic and corporate~~ to be known as the

1 Florida Black Business Investment Board, hereinafter referred
2 to as the "board," which shall be registered, incorporated,
3 organized, and operated in compliance with chapter 617 and
4 which shall not be a unit or entity of state government. ~~The~~
5 ~~board is hereby constituted a public instrumentality, and the~~
6 ~~exercise by the board of the powers conferred by ss. 9-21,~~
7 ~~chapter 85-104, Laws of Florida, shall be deemed to be the~~
8 ~~performance of an essential governmental function.~~

9 (a) The board shall consist of the following members:

10 1. Six ~~seven~~ members appointed by the Governor subject
11 to confirmation by the Senate, who must ~~six of whom shall~~ be
12 experienced in investment finance and business development,
13 ~~one of whom must be a member of a black business investment~~
14 ~~corporation.~~

15 2. One member from the private sector appointed by the
16 President of the Senate, who must be experienced in investment
17 finance and business development and who shall serve a term of
18 2 years.

19 3. One member from the private sector appointed by the
20 Speaker of the House of Representatives, who must be
21 experienced in investment finance and business development and
22 who shall serve a term of 2 years.

23 4. Three representatives of black business investment
24 corporations, who must be selected from among and by the
25 chairmen of the black business investment corporations. A
26 representative from a black business investment corporation
27 shall serve for a term of 2 years but shall be eligible for
28 reappointment on a rotating basis with other representatives
29 from black business investment corporations.

30 5. The vice chairman of Enterprise Florida, Inc., or
31 his or her designee, who shall be an ex officio, nonvoting

1 member, and who shall provide information, advice, and
2 guidance designed to enhance the coordination of activities of
3 Enterprise Florida, Inc., and the board.

4 6. The chair of the Florida Development Finance
5 Corporation, created pursuant to s. 288.9604, who shall be an
6 ex officio, nonvoting member of the board.

7 (b) Members appointed by the Governor shall serve
8 terms of 4 years, except that in making the initial
9 appointments, the Governor shall appoint one member to serve
10 for a term of ~~1 year, two members to serve for terms of 2~~
11 years, two members to serve for terms of 3 years, and two
12 members to serve for terms of 4 years.

13 (c) Any person appointed to fill a vacancy on the
14 board shall be appointed in a like manner and shall serve for
15 only the unexpired term. Any member shall be eligible for
16 reappointment.

17 (d) The Governor shall appoint the chairperson who
18 shall be a member of the board and shall serve at the pleasure
19 of the Governor. The board shall annually elect one of its
20 members as vice chairperson and shall designate a
21 secretary-treasurer who need not be a member of the board.
22 The secretary-treasurer shall keep a record of the proceedings
23 of the board and shall be the custodian of all books,
24 documents, and papers filed with the board, of the minute
25 books of the board, and of its official seal. ~~A majority of~~
26 ~~the members of the board shall constitute a quorum.~~

27 (e) The board shall meet at least four times each
28 year, upon the call of the chairperson, the vice chairperson,
29 or at the request of a majority of the membership. A majority
30 of the total number of all members fixed by paragraphs (a) and
31 (h) shall constitute a quorum. The board may take official

1 action by a majority vote of the members present at any
2 meeting at which a quorum is present.

3 (f)(e) Members of the board shall serve without
4 compensation, but members, the president of the board, and
5 other board employees may be reimbursed for all reasonable,
6 necessary, and actual expenses as determined by the board
7 shall be reimbursed for per diem and travel expenses in
8 accordance with s. 112.061.

9 (g)(f) Each member of the board who is not otherwise
10 required to file financial disclosure pursuant to s. 8, Art.
11 II of the State Constitution or s. 112.3144 shall file full
12 and public disclosure of financial interests pursuant to s.
13 112.3145 at the times and places and in the same manner
14 required of elected constitutional officers under s. 8, Art.
15 II of the State Constitution and any law implementing s. 8,
16 Art. II of the State Constitution.

17 (h) Notwithstanding the provisions of paragraph (a),
18 the board may by resolution appoint two at-large members to
19 the board from the private sector, each of whom may serve a
20 1-year term. At-large members shall have the powers and duties
21 of other members of the board, except that they may not serve
22 on an executive committee. An at-large member is eligible for
23 reappointment but may not vote on his or her own
24 reappointment.

25 Section 2. Section 288.7075, Florida Statutes, is
26 created to read:

27 288.7075 Legislative findings and intent; assistance
28 to minority business enterprises.--The Legislature finds that
29 a public purpose is served by creating and providing state
30 financial support for the public-private partnership known as
31 the Florida Black Business Investment Board, as well as by

1 providing financial support for the black business investment
2 corporations, in order to address the business-development
3 needs of black business enterprises. The Legislature further
4 finds, however, that the business-development needs of black
5 business enterprises are shared by other minority business
6 enterprises defined under s. 288.703. It is the intent of the
7 Legislature, therefore, that the board and the black business
8 investment corporations, notwithstanding any provisions in ss.
9 288.707-288.714 to the contrary, include minority business
10 enterprises within the scope of their duties,
11 responsibilities, and activities and report to the Governor
12 and the Legislature on their progress in assisting black
13 business enterprises and minority business enterprises.

14 Section 3. Section 288.708, Florida Statutes, is
15 amended to read:

16 288.708 President ~~Executive director~~; employees.--

17 (1) The president ~~executive director~~ of the board, who
18 may also be designated as secretary-treasurer, shall be
19 appointed by the board and shall serve at the pleasure of the
20 board. The board shall establish and adjust the compensation
21 of the president.The president ~~executive director~~ shall be
22 the chief administrative and operational officer of the board
23 and shall direct and supervise administrative affairs and the
24 general management of the board. The board may delegate to its
25 president those powers and responsibilities it deems
26 appropriate, except for appointment of the president.The
27 president ~~executive director~~:

28 (a) May contract with or employ legal and technical
29 experts and such other employees, permanent and temporary, as
30 shall be authorized by the board;

31 (b) Shall attend meetings of the board; and

1 (c) Shall cause copies to be made of all minutes and
2 other records and documents of the board and shall certify
3 that such copies are true copies. All persons dealing with
4 the board may rely upon such certification.

5 (2) The board and its officers shall be responsible
6 for the prudent use of all public and private funds and shall
7 ensure that the use of such funds is in accordance with all
8 applicable laws, bylaws, or contractual requirements. No
9 employee of the board shall receive compensation for
10 employment which exceeds the salary paid to the Governor,
11 unless the board and the employee have executed a contract
12 that prescribes specific, measurable performance outcomes for
13 the employee, the satisfaction of which provides the basis for
14 the award of incentive payments that increase the employee's
15 total compensation to a level above the salary paid to the
16 Governor.~~The executive director and all employees of the~~
17 ~~board shall be exempt from the provisions of part II of~~
18 ~~chapter 110, and the executive director shall be subject to~~
19 ~~the provisions of part IV of chapter 110.~~

20 Section 4. Section 288.709, Florida Statutes, is
21 amended to read:

22 288.709 Powers of the Florida Black Business
23 Investment Board.--The board shall have all the powers
24 necessary or convenient to carry out and effectuate the
25 purposes and provisions of ss. 288.707-288.714 ~~9-21, chapter~~
26 ~~85-104, Laws of Florida~~, including, but not limited to, the
27 power to:

28 (1) Adopt bylaws for the regulation of its affairs and
29 the conduct of its business and adopt policies ~~rules~~ pursuant
30 ~~to ss. 120.536(1) and 120.54~~ to implement the provisions of
31 law conferring duties upon it. However, any proposed bylaws or

1 policies ~~rules~~ affecting the operation or administration or
2 financial well-being of any of the black business investment
3 corporations must first be approved by a majority of the black
4 business investment corporations.

5 (2) Adopt an official seal.

6 (3) Sue and be sued in its own name.

7 (4) Make and execute contracts and other instruments
8 necessary or convenient for the exercise of its power and
9 functions.

10 (5) Acquire, hold, and dispose of personal property
11 for its corporate purposes.

12 (6) Enter into agreements or other transactions with
13 any federal, state, or local agency.

14 (7) Encourage financial institutions to participate in
15 consortia for the purpose of investing in black business
16 enterprises.

17 (8) Ensure that funds available to the board for
18 purposes set forth in ss. 288.707-288.714 ~~9-21, chapter~~
19 ~~85-104, Laws of Florida,~~ are disbursed on a statewide basis
20 and are not concentrated in one geographical area.

21 (9) Acquire real property or any interest therein, by
22 purchase or foreclosure, where such acquisition is necessary
23 or appropriate to protect or secure any investment or loan in
24 which the board has an interest; to sell, transfer, and convey
25 any such property to a buyer without regard to the provisions
26 of chapters 253 and 270; and, in the event that such sale,
27 transfer, or conveyance cannot be effected with reasonable
28 promptness or at a reasonable price, to lease such property
29 for occupancy by eligible persons.

30 (10) Invest any funds held in reserves or sinking
31 funds, or any funds not required for immediate disbursement,

1 in such investments as may be authorized for trust funds under
2 s. 215.47; provided, such investments will be made on behalf
3 of the board by the Office of State Treasurer or by another
4 trustee appointed for that purpose.

5 (11) Appear in its own behalf before boards,
6 commissions, departments, or other agencies of municipal,
7 county, state, or federal government.

8 (12) Procure insurance or require bond against any
9 loss in connection with its property in such amounts and from
10 such insurers as may be necessary or desirable.

11 (13) Receive and accept from any federal, state, or
12 local agency grants, loans, or advances for, or in aid of, the
13 purposes of ss. 288.707-288.714 ~~9-21, chapter 85-104, Laws of~~
14 ~~Florida~~, and to receive and accept contributions from any
15 source of either money, property, labor, or other things of
16 value, to be held, used, and applied for said purposes.

17 (14) Create, issue, and buy and sell stock, evidences
18 of indebtedness, and other capital participation instruments;
19 to hold such stock, evidences of indebtedness, and capital
20 participation instruments; and to underwrite the creation of a
21 capital market for these securities in a manner designed to
22 enhance development of capital ownership in the target group.

23 (15) Provide and pay for such advisory services and
24 technical assistance as may be necessary or desirable to carry
25 out the purposes of this act.

26 (16) Engage in special programs to enhance the
27 development of black business enterprises as authorized by
28 this act.

29 (17) Promote black ownership of financial institutions
30 in Florida.

31

1 (18) Take, hold, and improve property, including real
2 property.

3 (19) Do any and all things necessary or convenient to
4 carry out the purposes of, and exercise the powers given and
5 granted in, ss. 288.707-288.714 ~~9-21, chapter 85-104, Laws of~~
6 ~~Florida~~, and exercise any other powers, rights, or
7 responsibilities of a corporation.

8 Section 5. Section 288.7091, Florida Statutes, is
9 amended to read:

10 288.7091 Duties of the Florida Black Business
11 Investment Board.--The Florida Black Business Investment Board
12 shall:

13 (1) Establish certification criteria for black
14 business investment corporations. Certification criteria shall
15 include administrative capacity, fiduciary controls, and, in
16 the case of existing black business investment corporations,
17 solvency and soundness of prior loan decisions;

18 (2) Ensure that any appropriations by the Legislature
19 to the board on behalf of the black business investment
20 corporations are provided to the corporations in the manner
21 and amount prescribed by the Legislature;

22 (3) Work with Enterprise Florida, Inc., and local
23 economic development organizations to promote the retention
24 and expansion of existing black business enterprises and to
25 promote the formation and recruitment of new black business
26 enterprises;

27 (4)(2) Develop a memorandum of understanding with
28 Enterprise Florida, Inc., that outlines a strategy for
29 collaboration with the programs, activities, and committees or
30 similar units and boards of Enterprise Florida, Inc., which
31 memorandum of understanding shall provide for Enterprise

1 Florida, Inc., to contract with the board, where practicable,
2 for the delivery of economic development services relating to
3 black business enterprises;

4 (5)(3) Include in the criteria for loan decisions,
5 occupational forecasting results set forth in s. 216.136(9)
6 which target high growth jobs;

7 (6)(4) Facilitate the formation of black business
8 investment corporations in communities that are not currently
9 served by such corporations and establish, in communities that
10 are not currently served by an existing black business
11 investment corporation, memoranda of understanding with local
12 financial institutions that will provide loan guarantees for
13 loans to black business enterprises;

14 (7)(5) Develop memoranda of understanding with the
15 Departments of ~~Labor and Employment Security~~, Education,
16 Transportation, Community Affairs and Management Services, as
17 well as with Workforce Florida, Inc., and the State Board of
18 Regents, detailing efforts of common interest and
19 collaborations to expand black business development;

20 (8)(6) Intensify efforts to increase the number of
21 franchises owned by black businesses and the number of the
22 black business enterprises in construction and
23 construction-related projects, focusing on federal, state, and
24 local government financed construction projects; and

25 (9)(7) Annually, prepare a report detailing the
26 performance of each black business investment corporation,
27 addressing the number of jobs created and/or retained, success
28 and failure rates among loan recipients, and the amount of
29 funds leveraged from other sources.

30 Section 6. Section 288.7092, Florida Statutes, is
31 created to read:

1 288.7092 Return on investment from activities of the
2 board.--

3 (1) The public funds appropriated each year for the
4 operation of the board are invested in this public-private
5 partnership to enhance black business ownership and
6 investments in Florida. This policy shall be the Legislature's
7 priority consideration when reviewing the return on investment
8 for the board.

9 (2) It is also the intent of the Legislature that the
10 board coordinate its operations with Enterprise Florida, Inc.,
11 and with local economic development organizations to maximize
12 the state and local return on investment to create jobs for
13 Floridians.

14 (3) It is further the intent of the Legislature to
15 maximize private sector support in operating the board as an
16 endorsement of its value and as an enhancement of its efforts.

17 (4)(a) The state's operating investment in the board
18 is the budget contracted by the Office of Tourism, Trade, and
19 Economic Development to the board, less funding that is
20 directed by the Legislature to be subcontracted to a specific
21 recipient.

22 (b) The board shall adopt for each upcoming fiscal
23 year an operating budget for the organization that specifies
24 the intended uses of the state's operating investment, other
25 sources of income, and a plan for securing private sector
26 support to the board. Each fiscal year, private sector support
27 to the board shall be as follows: no less than 50 percent of
28 the state's investment by July 1, 2002; no less than 60
29 percent of the state's investment by July 1, 2003; no less
30 than 70 percent of the state's investment by July 1, 2004; no
31 less than 80 percent of the state's investment by July 1,

1 2005; and no less than 100 percent of the state's investment
2 by July 1, 2006.

3 (5) Private sector support in operating the board
4 includes:

5 (a) Cash given directly to the board for its operating
6 budget.

7 (b) Cash jointly raised by the board and a local
8 economic development organization, a group of such
9 organizations, or a statewide business organization that
10 supports collaborative projects.

11 (c) Cash generated by products or services of the
12 board.

13 (d) In-kind contributions directly to the board,
14 including private sector equipment contributed as part of
15 technical assistance; goods and services, including time
16 donated by loan officers, advertising or marketing support,
17 and items used to promote the board; business expenditures;
18 business services provided; business support; and other
19 business contributions that augment the operations, program,
20 activities, or assets of the board, including, but not limited
21 to, an individual's time and expertise, sponsored
22 publications, private sector staff services, payment for
23 advertising placements, sponsorship of events, sponsored or
24 joint research, discounts on leases or purchases, mission or
25 program sponsorship, copayments, stock, warrants, royalties,
26 or other private resources dedicated to the board, low
27 interest loans, participations, investment income, equity
28 investments, and the economic impact of board investments and
29 job creation and retention.

30 (6) The board shall fully comply with the performance
31 measures, standards, and sanctions in its contracts with the

1 Office of Tourism, Trade, and Economic Development. The office
2 shall ensure, to the maximum extent possible, that the
3 contract performance measures are consistent with performance
4 measures that the office is required to develop and track
5 under performance-based program budgeting.

6 (7) As part of the annual report required under s.
7 288.714, the board shall provide the Legislature with
8 information quantifying the public's return on investment.

9 (8) The board, in consultation with the Office of
10 Program Policy Analysis and Government Accountability, shall
11 hire a private accounting firm or economic analysis firm to
12 develop the methodology for establishing and reporting return
13 on investment and in-kind contributions as described in this
14 section. The Office of Program Policy Analysis and Government
15 Accountability shall review and offer feedback on the
16 methodology before it is implemented. The private accounting
17 firm or economic analysis firm shall certify whether the
18 applicable statements in the annual report comply with this
19 section.

20 Section 7. Subsections (1) and (4) of section 288.711,
21 Florida Statutes, are amended to read:

22 288.711 Florida Investment Incentive Trust Fund.--

23 (1) There is hereby created the Florida Investment
24 Incentive Trust Fund from which money may be drawn for
25 investments or loans, as authorized by this section, to
26 encourage the development of appropriate financial mechanisms
27 in the private sector to capitalize and assist in the
28 development of black business enterprises. All income earned
29 by investments of the fund shall be deposited in the fund for
30 carrying out the purposes of ss. 288.707-288.714 ~~9-21, chapter~~
31 ~~85-104, Laws of Florida.~~ Administrative costs of the program

1 shall be appropriated in a lump-sum appropriation from the
2 fund created herein and shall be provided in the General
3 Appropriations Act.

4 (4) All loans and investments, and any income related
5 thereto, shall be used to carry out the public purpose of ss.
6 288.707-288.714 ~~9-21, chapter 85-104, Laws of Florida~~, which
7 is to develop black business enterprises. This is not meant
8 to preclude a reasonable profit for the participating black
9 business investment corporation or for return of equity
10 developed to the state and participating financial
11 institutions upon any distribution of the assets or excess
12 income of the investment corporation.

13 Section 8. Paragraph (b) of subsection (3) and
14 paragraph (b) of subsection (4) of section 288.712, Florida
15 Statutes, are amended to read:

16 288.712 Florida guarantor funds.--

17 (3)

18 (b) For purposes of this section, the board may
19 utilize the Black Contractors Bond Trust Fund in the State
20 Treasury, consisting of moneys deposited or credited to the
21 Black Contractors Bond Trust Fund pursuant to appropriation
22 made by law; any grants, gifts, and contributions received
23 pursuant to ss. 288.707-288.714 ~~9-21, chapter 85-104, Laws of~~
24 ~~Florida~~; all moneys recovered following defaults; and any
25 other moneys obtained by the board for this purpose. The fund
26 shall be administered by the board in trust for the purposes
27 of this section and shall at no time be part of general public
28 funds under the following procedures:

29 1. The board is authorized to post or pledge the
30 assets of the Black Contractors Bond Trust Fund as collateral
31 in amounts necessary to secure the issuance of bid bonds and

1 construction contract bonds to black business enterprises.
2 The board shall establish a premium to be charged to the black
3 business enterprise for which the assets have been so posted
4 or pledged, pursuant to generally accepted actuarial
5 principles, and shall establish such rules as may otherwise be
6 necessary to carry out the purposes of this section.

7 2. Any claims against the state arising from defaults
8 shall be payable from the Black Contractors Bond Trust Fund.

9 3. Nothing in this subsection shall be construed to
10 prohibit or restrict the board from entering into a joint
11 venture or other contractual agreement with a private insurer
12 or to invest in a private entity to handle all or part of a
13 black contractors bonding program, credit program, or both for
14 black business enterprises. Such investments or joint venture
15 shall be made under conditions required by law and as the
16 board may, from time to time, require and may take any of the
17 forms described in s. 288.711(2) and (3). The board is
18 authorized and encouraged to contract with a regulated surety
19 company to conduct a surety bond program for black business
20 enterprises. Moneys from the Black Contractors Bond Trust
21 Fund may be used for these purposes.

22 (4)

23 (b) If the board chooses to establish a loan guaranty
24 program, it shall utilize the Black Business Loan Guaranty
25 Trust Fund in the State Treasury, consisting of moneys
26 deposited or credited to the Black Business Loan Guaranty
27 Trust Fund pursuant to appropriation made by law; any grants,
28 gifts, and contributions received pursuant to ss.

29 288.707-288.714 ~~9-21, chapter 85-104, Laws of Florida~~; all
30 moneys recovered following defaults; and any other moneys
31 obtained by the board for this purpose. The Black Business

1 Loan Guaranty Trust Fund shall be administered by the board in
2 trust for the purposes of this section and shall at no time be
3 part of general public funds under the following procedures:

4 1. The board shall utilize the Black Business Loan
5 Guaranty Program Administrative and Loss Reserve Fund in the
6 State Treasury, consisting of all premiums charged and
7 collected in accordance with this section and any income
8 earned from the moneys in the account. All expenses of the
9 board in carrying out the purposes of this subsection shall be
10 paid from the Black Business Loan Guaranty Program
11 Administrative and Loss Reserve Fund. Any moneys to the
12 credit of the Black Business Loan Guaranty Program
13 Administrative and Loss Reserve Fund in excess of the amount
14 necessary to fund the board's activity shall be held as a loss
15 reserve to pay claims arising from defaults on loans
16 underwritten in accordance with this section.

17 2. Any claims against the state arising from defaults
18 shall be payable initially from the Black Business Loan
19 Guaranty Program Administrative and Loss Reserve Fund and,
20 secondarily, from the Black Business Loan Guaranty Trust Fund.

21 3. The board as loan guarantor may exercise all rights
22 and powers of a company authorized by the Department of
23 Insurance to guarantee loans but shall not be subject to any
24 requirements of an insurance company under the Florida
25 Insurance Code, nor to any rules of the Department of
26 Insurance; however, the board shall refer to the insurance
27 code and rules thereunder when designing and administering
28 such program. The board shall follow sound actuarial
29 principles when administering this program. The board shall
30 establish a premium for the loan guaranty and such rules as
31 may be necessary to carry out the purposes of this section.

1 4. The board may guarantee no more than 20 percent of
2 the principal of a loan to a black business enterprise.

3 Section 9. Section 288.714, Florida Statutes, is
4 amended to read:

5 288.714 Annual report.--By February 1 ~~March 31~~ of each
6 year the board shall submit to the Governor, the President of
7 the Senate, the Speaker of the House of Representatives, and
8 the director of the Office of Tourism, Trade, and Economic
9 Development ~~and the secretary of the Department of Labor and~~
10 ~~Employment Security~~ a complete and detailed report setting
11 forth:

12 (1) Operations and accomplishments of the board;

13 (2) The number of black business enterprises which
14 participated during the past year in programs established or
15 administered by the board;

16 (3) The number of black business enterprises receiving
17 assistance from the board and the manner in which the
18 assistance was received;

19 (4) The status of black business enterprises which
20 participated in programs established or administered by the
21 board;

22 (5) The total number of jobs represented by black
23 business enterprises participating in programs established or
24 administered by the board;

25 (6) Receipts and expenditures of the board during its
26 most recent fiscal year in accordance with the categories or
27 classifications established by the board for its operating and
28 capital accounts;

29 (7) Assets and liabilities of the board at the end of
30 its most recent fiscal year and the status of its trust funds;
31 and

1 (8) A schedule of local bonds outstanding authorized
2 by the board and capital participation instruments issued by
3 the board for the year and the total to date.

4 Section 10. Black Business Investment Board state
5 employee leasing program.--

6 (1) The Department of Management Services shall
7 establish a lease-agreement program under which an employee as
8 of June 30, 2001, of the Black Business Investment Board
9 created under chapter 85-104, Laws of Florida, retains his or
10 her status as a state employee until a set date.

11 (2) The Department of Management Services shall
12 establish the terms and conditions of the program and such
13 lease agreements.

14 (a) Status as a state employee shall include the right
15 to participate in the Florida Retirement System.

16 (b) Any employee who participates in a lease agreement
17 shall work under the direct supervision of the board.

18 (c) Status as a state employee under a lease agreement
19 as provided in this section expires on June 30, 2003, unless
20 the employee voluntarily relinquishes his or her status as a
21 state employee before that date.

22 Section 11. Subsection (5) of section 288.9015,
23 Florida Statutes, is amended to read:

24 288.9015 Enterprise Florida, Inc.; purpose; duties.--

25 (5) Enterprise Florida, Inc., shall incorporate the
26 needs of small and minority businesses into the
27 economic-development, international-trade and
28 reverse-investment, and workforce-development responsibilities
29 assigned to the organization by this section. Where
30 practicable and consistent with the expertise of the Black
31 Business Investment Board, Enterprise Florida, Inc., shall

1 contract with the board for the delivery of services in
2 fulfillment of the responsibilities of Enterprise Florida,
3 Inc., relating to small and minority businesses.

4 Section 12. The Black Business Investment Board shall
5 report to the Legislature by January 1, 2003, on what efforts
6 were made to include all minorities within the scope of
7 activities by the board and the black business investment
8 corporations.

9 Section 13. There is appropriated from the General
10 Revenue Fund to the Office of Tourism, Trade, and Economic
11 Development the sum of \$17.5 million in fiscal year 2001-2002
12 for use by the Black Business Investment Board. Of such sum:

13 (1) \$16 million shall be divided equally among, and
14 distributed by the board to, the black business investment
15 corporations existing in this state on the effective date of
16 this act;

17 (2) \$1 million shall be for use by the board for
18 capitalizing programs of the board in support of black
19 business enterprises and for facilitating the creation of
20 black business investment corporations in communities that are
21 not currently served by an existing black business investment
22 corporation; and

23 (3) \$500,000 shall be for use by the board for its
24 operations.

25 Section 14. This act shall take effect July 1, 2001.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1772

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

16 This committee substitute provides that the Department of
17 Management Services (DMS) shall establish a lease-agreement
18 program under which an employee of the board may elect to
19 retain status as a state employee, including the right to
20 participate in the Florida Retirement System, until June 30,
21 2003. Any employee who participates in the lease agreement
22 must work under the direct supervision of the board.

23 This committee substitute provides a legislative finding that
24 the business-development needs of black business enterprises
25 are shared by other minority business enterprises and,
26 therefore, provides the intent of the Legislature that the
27 board and the black business investment corporations must
28 include minority business enterprises within the scope of
29 their activities and report to the Governor and the
30 Legislature on their progress in assisting black business
31 enterprises and minority business enterprises.

32 This committee substitute provides for board membership, which
33 includes gubernatorial appointees, legislative appointees, and
34 representatives from black business investment corporations,
35 among others; requires the BBIB to provide a
36 return-on-investment report; and requires the BBIB to adopt an
37 operating budget that includes private sector support that
38 increases each year until the amount of private support is
39 equal to the state's investment. This committee substitute
40 changes the title of the "Executive Director" to the
41 "President," requires the president to serve at the pleasure
42 of the board, and provides the board with the power to
43 establish and adjust the compensation of the president.

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

49 This committee substitute appropriates the sum of \$17.5
50 million in FY 2001-2002.