

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 1392

SPONSOR: Commerce and Economic Opportunities Committee and Senator Klein

SUBJECT: Economic Development

DATE: March 1, 2002 REVISED: 03/05/02 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bimholz/Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute creates the “Florida Emerging and Strategic Technologies Act.” It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, including, but not limited to, the information technology industry. To effectuate this intent, the committee substitute amends and creates programs and policies relating to the digital-media industry, the availability of capital for high-technology industries, the mission of the state system of postsecondary education, and workforce development. The committee substitute, in part, enacts some of the recommendations emanating from the Information Service Technology Development Task Force. Some of the principal provisions of the committee substitute include:

- Specifying that economic development is a fundamental component of the mission of the state system of postsecondary education;
- Expressing the intent of the Legislature that the Board of Administration invest funds from the State Retirement System in a manner that complements the economic development goals of the state, including helping to provide venture capital to Florida-based businesses;
- Declaring that the information technology industry is a high-impact sector for the purposes of a grant program for businesses making significant investments in production or research and development facilities in the state;
- Authorizing a program that provides financial support for the establishment of joint-use advanced digital media research and production facilities which are designed to bring the educational and business communities together, in part to help address the workforce needs of the digital media industry;
- Providing for the continuation of the Digital Media Education Coordination Group;

- Specifying that information technology activities are within the scope of the Florida Industrial Development Financing Act; and
- Transferring primary responsibility to Workforce Florida, Inc., for maintenance of a website designed to market the information technology industry and promote workforce recruitment for the industry.

This committee substitute substantially amends the following sections of the Florida Statutes: 159.26, 159.27, 159.705, 240.105, 240.710, 288.108, and 445.045. The committee substitute creates section 121.155, Florida Statutes, and the committee substitute also creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Information Service Technology Development Task Force

The Legislature in 1999 created the Information Service Technology Development Task Force (task force) within the Department of Management Services (s. 11, ch. 99-354, L.O.F.). The task force, which operated under the name “itflorida.com” and which dissolved effective July 1, 2001, was composed of 34 members from the public and private sectors. The charge of the task force included developing overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies; identifying factors that will affect the ability of such technologies to flourish in the state; and developing policy recommendations for each factor.

To achieve its purposes, the task force divided its stated directives among nine subcommittees. Each subcommittee developed policy recommendations according to its stated directive.¹ Policy recommendations from the eBusiness subcommittee included:

- Formation of a private entity, itflorida.com, Inc., to continue the work of the task force following the task force’s dissolution;
- Development of the information technology marketing and image campaign by Enterprise Florida, Inc., required under legislation adopted during the 2000 session (s. 34, ch. 2000-164, L.O.F.; s. 288.911, F.S.²);
- Expansion of the Certified Capital Company (CAPCO) Act under s. 288.99, F.S.;
- Revision of the \$30 million cap – to \$35 million – on the total state share of tax refund payments that may be scheduled for future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs;³

¹ The nine subcommittees included: eBusiness Development, Retention & Recruitment; eEducation K-12; eWorkforce; eAccess & Awareness; eGovernment; eLaws – Administrative & Regulatory; eLaws – Civil & Criminal; eInfrastructure & Technology Development; and eEntertainment (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 1-3).

² This statute requires EFI to “create a marketing campaign to help attract, develop, and retain information technology businesses in this state.” Further, the statute specifies that the “message of the campaign shall be to increase national and international awareness of this state as a state ideally suited for the successful advancement of the information technology business sector” (s. 288.911(1) and (2), F.S.).

- Creation of a broad-based sales tax credit for machinery and equipment purchased for use in research and development activities;
- Repeal of the tax on intangible personal property;
- Inclusion of “information technology” as a project activity eligible for industrial revenue bond financing;
- Designation of “information technology” as a sector eligible for participation in the state’s grant program for high-impact businesses under s. 288.108, F.S.; and
- Authorization by the Legislature of a study on whether to adopt the Uniform Computer Information Transactions Act (UCITA) (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 9-10).

Some of the recommendations of the eWorkforce subcommittee included:

- Provision of career education starting in middle school regarding careers in high technology and information technology;
- Creation of a corporate income tax program for employers who pay tuition and fees for employees or prospective employees enrolling in certain information technology programs; and
- Facilitation of partnerships between the private sector and the education community in targeted activities (*id.* at pp. 11-12).

Recommendations of the eEntertainment subcommittee included:

- Development of joint-use advanced digital media research and production facilities at strategic locations in the state, with the facilities serving as focal points for collaboration between the digital media industry and educational institutions; and
- Designation of the digital media industry as a high-impact sector for the purposes of some of the state’s incentive programs, such as the grant program for high-impact businesses under s. 288.108, F.S., and the QTI tax refund program under s. 288.106, F.S. (*id.* at p. 14).

Digital Media

During the 2000 regular session, the Legislature required the Board of Regents to create a Digital Media Education Coordination Group to develop a plan to enhance Florida’s ability to meet the current and future workforce needs of the digital media industry (s. 153, ch. 2000-165, L.O.F., as codified in s. 240.710, F.S.). The group issued its report to the Legislature in January 2001. One of the recommendations of the group was that a Florida Digital Media Coordinating Council be created to serve as a coordinating council for digital media education, research, and workforce development. The group provided that one of the council’s functions would be to plan for and seek public and private funding for a series of regional joint-use advanced digital media production facilities. The facilities would be designed to encourage collocation and collaboration

³ During the 2001 session, the Legislature raised the statutory cap to \$35 million effective with the 2002-2003 fiscal year. *See* s. 41, ch. 2001-201, L.O.F.

between industry and educational entities. Among other purposes, the facilities would provide affordable access to state-of-the-art facilities for both academic and industry partner activities and would provide professional development of students through involvement with actual industry projects (State University System of Florida, *Digital Media Education Coordination Group Report to the Florida Legislature*, January 1, 2001, p. 10).

Economic Development/Workforce Development Tools

Bond Financing: Part II of ch. 159, F.S., is the “Florida Industrial Development Financing Act.” The federal government provides an annual allocation to the state for the issuance of tax-exempt industrial revenue bonds. The estimated amount available in 1999 was \$765 million. Section 159.26, F.S., governs the legislative findings and purpose of the act and cites specific activities as being vital to the state in relation to the use of financing under the act, including, but not limited to, agriculture, tourism, urban development, historic preservation, education, and health care industries. The Information Service Technology Development Task Force recommended that information technology be added to the act as an eligible category of activities (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, p. 22). Section 159.30(1), F.S., provides that a project financed under the act may not be operated by a governmental agency except in certain temporary circumstances.

High-Impact Performance Incentives: Section 288.108, F.S., provides for the payment of grants to a business in a high-impact sector that makes a cumulative investment in the state of \$100 million and creates at least 100 full-time jobs. In the case of a research-and-development facility, the investment must be \$75 million, with 75 full-time jobs. The total amount of active performance grants scheduled for payment by the Office of Tourism, Trade, and Economic Development (OTTED) in any single fiscal year may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for that fiscal year for qualified high-impact business performance grants (s. 288.108(4)(a), F.S.). The statute prescribes a process under which Enterprise Florida, Inc. (EFI), and OTTED select and designate the high-impact sectors eligible for the program. Through this process, the following business classifications have been designated as high-impact sectors:

- Within the information technology sector: office and computing equipment (Standard Industrial Classification 357), communications equipment (SIC 366), electronic components manufacturing (SIC 367), telephone communications (SIC 481), telegraph and other message communications (SIC 482), and information services (SIC 737); and
- Within the transportation equipment-manufacturing sector: aircraft and parts (SIC 372), guided missiles and space vehicles and parts (SIC 376), and motor vehicles and passenger car bodies (SIC 3711).

The statute also currently specifies that the silicon-technology sector is a high-impact sector (s 288.108(6)(i), F.S.).

Capital Investment Tax Credit: Section 220.191, F.S., provides for the Capital Investment Tax Credit (CITC) Program to allow certain businesses which establish qualifying projects in this state to receive an annual credit against the corporate income tax liability or the premium tax liability generated by the project. The term “qualifying project” is defined as a new or expanding

facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by EFI and certified by OTTED pursuant to s. 288.108(6), F.S., including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. (See the description of the high-impact performance incentives under s. 288.108, F.S., above.)

The annual tax credit granted under the CITC Program must not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project:

- One hundred percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.⁴
- Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.
- Fifty percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.

A qualifying project that results in a cumulative capital investment of less than \$25 million is not eligible for the capital investment tax credit.

Internet-Based System for Information Technology Promotion and Workforce:

Section 445.045, F.S., requires the Department of Labor and Employment Security to facilitate efforts to ensure the development and maintenance of a website that promotes the information technology industry in Florida. In addition to containing information on the scope of the information technology industry in the state, the website is to contain information concerning employment opportunities at information technology businesses in the state.

Postsecondary Education

The statutory mission of the state system of postsecondary education is: 1) to develop human resources, 2) to discover and disseminate knowledge, 3) to extend knowledge and its application beyond the boundaries of its campuses, and 4) to serve and stimulate society by developing in students heightened intellectual, cultural, and humane sensitivities; scientific, professional, and technological expertise; and a sense of purpose (s. 240.105(2), F.S.). This statutory statement currently does not specifically cite “economic development” as being within the mission of the state system of postsecondary education.

Investments of Florida Retirement System Funds

Chapter 121, F.S., governs the Florida Retirement System. The System Trust Fund is the trust fund established in the State Treasury for the purpose of holding and investing the contributions by members and employers of the Florida Retirement System and paying system benefits (s. 121.021(36), F.S.). The Board of Administration has responsibility for investing and reinvesting available funds of the System Trust Fund consistent with provisions contained in

⁴ The term “cumulative capital investment” is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

ch. 215, F.S. (s. 121.151, F.S.). The Investment Advisory Council is a six-member council that reviews the investments made by staff of the Board of Administration and that makes recommendations regarding investment policies, strategies, and procedures (s. 215.444, F.S.).

In 1995, the Board of Administration (board) contributed \$15 million toward the capitalization of the Cypress Equity Fund, which is a venture capital “fund of funds” concept developed by Enterprise Florida, Inc. (*See Office of Program Policy Analysis and Government Accountability, Review of the Enterprise Florida, Inc., Capital Development Board’s Cypress Equity Fund, Report No. 98-33, December 1998, p. 2.*) The board and five financial institutions contributed a total of \$35.5 million, which has been invested in a portfolio of venture capital funds formed by professional venture capitalists, who, in turn, invest in individual businesses according to their individual investment criteria. This approach differs from a concept in which direct investments are made in individual companies.

III. Effect of Proposed Changes:

This committee substitute creates the “Florida Emerging and Strategic Technologies Act.” It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, including, but not limited to, the information technology industry. To effectuate this intent, the committee substitute amends and creates programs and policies relating to the digital-media industry, the availability of capital for high-technology industries, the mission of the state system of postsecondary education, and workforce development. The committee substitute, in part, enacts some of the recommendations emanating from the Information Service Technology Development Task Force. Following is a section-by-section analysis of the committee substitute.

Section 1 provides that this act may be cited as the “Florida Emerging and Strategic Technologies Act.”

Section 2 creates s. 121.155, F.S., relating to investments of the Florida Retirement System in support of the state’s economic development goals. This new section of the Florida Statutes contains legislative findings that access to capital affects the growth of high-technology businesses in the state and that the State Board of Administration (SBA), by virtue of its authority to invest state retirement system dollars, can influence the availability of capital for such businesses. The committee substitute expresses the intent of the Legislature that the SBA continue to maximize opportunities to invest state retirement system dollars in a manner that complements economic development goals, such as investing funds in support of emerging and strategic technology businesses in the state and forming partnerships with venture capital firms to encourage investment of venture capital funds in these businesses. The committee substitute requires the SBA to solicit information from Enterprise Florida, Inc. (EFI), on state economic development goals; to share such information with the SBA’s Investment Advisory Council; and to report to the Legislature on the SBA’s activities that further the legislative findings and intent.

Sections 3 and 4 amend ss. 159.26 and 159.27, F.S., the “Florida Industrial Development Financing Act,” (act) to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act. Further, this committee substitute provides a definition of the term

“information technology facility,” which specifies – by North American Industry Classification System (NAICS) codes – the types of businesses included within the term.

Section 5 amends s. 159.705, F.S., relating to the powers of a research and development authority. The committee substitute specifies that, notwithstanding any other provision of ch. 159, F.S., a project that is located in a research and development park and that is financed through the Florida Industrial Development Financing Act may be operated by a research and development authority, a state university, a state community college, or a governmental agency if the purpose and operation of the project are consistent with the policies governing research and development authorities.

Section 6 amends s. 240.105, F.S., to provide that the mission of the state system of postsecondary education includes promoting “the economic development of the state.”

Section 7 amends s. 240.710, F.S., to provide for continued functioning of the Digital Media Education Coordination Group that was created in 2000 to develop a plan for enhancing the state’s ability to meet the workforce needs of the digital media industry. The committee substitute provides for the coordination group to be formed within the purview of the Division of Colleges and Universities at the Department of Education, rather than by the Board of Regents. Obsolete provisions related to the development of the plan are deleted, as the plan was submitted to the Legislature in January 2001. The committee substitute provides, however, for the coordination group to continue to work on the issue of enhancing the state’s ability to meet the industry’s workforce needs. This section specifies that the coordination group shall work with the Division of Community Colleges; the Office of Tourism, Trade, and Economic Development; and the Articulation Coordinating Committee. The coordination group is required to report annually to the Florida Board of Education.

Section 8 amends s. 288.108, F.S., relating to a grant program for high-impact businesses, to specify that the “information technology sector” is comprised of the types of businesses that produce the high impact the incentive is designed to encourage. This revision also provides that for the purposes of this economic development incentive, as well as the capital investment tax credit under s. 220.191, F.S., the information technology sector encompasses the digital media sector as defined by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development. This section also replaces the term “silicon technology” with the term “semiconductor technology” for purposes of this industry’s existing designation as a high-impact business.

Section 9 amends s. 445.045, F.S., relating to development of an Internet-based system for information technology industry promotion and workforce recruitment. The committee substitute reassigns responsibility for the development and maintenance of this website to Workforce Florida, Inc. (WFI), from the Department of Labor and Employment Security. The committee substitute also charges WFI with ensuring coordination and compatibility between the website operated under this section and the larger workforce information system required under s. 445.011, F.S. WFI also must coordinate its efforts with the efforts of Enterprise Florida, Inc., to develop a high-technology marketing campaign as required by s. 288.911, F.S. In addition, WFI is to work with the State Technology Office to ensure consistency with the state’s information system strategy and enterprise architecture. The committee substitute authorizes

WFI to contract with public agencies for assistance in developing and maintaining the website, and it also authorizes WFI to procure services necessary to fulfill its responsibilities under this section, provided it utilizes competitive procurement practices.

Section 10 expresses the Legislature’s intent to support the creation of joint-use advanced digital-media research and production facilities in Florida, to provide opportunities for collaboration between research and education programs and the digital-media industry. To that end, the committee substitute authorizes the Office of Tourism, Trade, and Economic Development (OTTED), subject to legislative appropriation, to create a program to facilitate establishment and maintenance of such facilities. OTTED is required to develop a strategic plan addressing the governance and funding of such facilities and may contract for the establishment of the facilities – maximizing the use and integration of existing facilities in the state that would be suitable as advanced digital-media facilities. The committee substitute authorizes funding provided under this section to be used to lease or refurbish existing facilities. Any entity receiving state funds under this program is required to match such funding with non-state sources. In addition, any facility receiving funds must submit an operating plan to OTTED for approval, which plan must provide for the creation of a tenant association and for the collection of dues from tenants to support operation and maintenance of the facility. The committee substitute authorizes OTTED to identify the specific types of businesses to be included within the meaning of “digital media” for the purposes of this section.

Section 11 requires the Office of Tourism, Trade, and Economic Development, the Office of Film and Entertainment, and the Digital Media Education Coordination Group to report to the Legislature by February 1, 2003, on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities. (*See* section 10, above.)

Section 12 provides that the act takes effect upon becoming a law.

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:

The Revenue Estimating Conference estimates the fiscal impact of section 8 of this committee substitute (amending s. 288.108, F.S., relating to a grant program for high-impact businesses) to be a FY 2002-03 General Revenue loss of \$4.8 million with an annualized first-year loss of \$18.6 million.

Issue/Fund	Fiscal Year 2002-2003							
	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
SB 1392	\$ (4.8)	\$ (18.6)	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0	\$ (4.8)	\$ (18.6)

B. Private Sector Impact:

This committee substitute contains a number of provisions designed to create a business climate in the state conducive to the retention, growth, and recruitment of high-technology businesses. The precise impact on the private sector is not known.

C. Government Sector Impact:

The precise impact of this committee substitute on the government sector is not known. The measure does require a number of actions by governmental or public-private entities, some of which include requiring:

- Staff of the Board of Administration to regularly solicit information from Enterprise Florida, Inc., on economic development strategies;
- Workforce Florida, Inc., to maintain a website promoting the information technology industry and providing for workforce recruitment; and
- The Office of Tourism, Trade, and Economic Development, the Office of Film and Entertainment, and the Digital Media Education Coordination Group to report to the Legislature on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Provisions of this bill are similar to a predecessor version introduced in the 2001 Regular Session. In that version the entity “itflorida.com, incorporated” was designated to specifically provide advice and technical assistance as well as to “. . . advocate on behalf of information

technology businesses throughout the state”⁵ At that time two of the directors of the corporation were Roy Cales, then Director of the State Technology Office and another employee of the Executive Office of the Governor. The current public records for this corporation still list these individual’s names in those same capacities. The proposed 2002 legislation contemplates the solicitation of input from a yet-to-be-named non-for-profit corporation on the development of a joint-use advanced digital media research and production facility administered through the Office of the Governor’s Office of Tourism, Trade, and Economic Development. There has been some discussion that this is a distinction with perhaps little difference. Caution should be exercised to avoid any role confusion over the discharge of responsibilities wholly within the public sector from those serving a private interest.

VIII. Amendments:

#1 by Governmental Oversight and Productivity:
Eliminates the fiscal impact by repealing the authorization for tax credits.

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

⁵ Committee Substitute for Senate Bill 1750, p. 31, 2001 Regular Session of the Florida Legislature.