

By Senator Holzendorf

2-19-02

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 ~~ss. 9-21,~~  
14 ~~chapter 85-104, Laws of Florida:~~

15           (a) "Black business enterprise" means any business  
16 concern that ~~which~~ is organized to engage in commercial  
17 transactions and that ~~which~~ is at least 51 percent owned by  
18 one or 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 that ~~which~~ jointly negotiate and agree to provide  
27 assistance to black business enterprises as provided in ss.  
28 288.707-288.714 ~~ss. 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 is not a unit or entity of state government. ~~The board~~  
5 ~~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 and  
11 subject to confirmation by the Senate, who must ~~six of whom~~  
12 ~~shall~~ be experienced in investment finance and business  
13 ~~development, one of whom must be a member of a black business~~  
14 ~~investment 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 is 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 or 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 paragraph (a), the board may by  
18 resolution appoint two at-large members to the board from the  
19 private sector, each of whom may serve a 1-year term. At-large  
20 members shall have the powers and duties of other members of  
21 the board, except that they may not serve on an executive  
22 committee. An at-large member is eligible for reappointment  
23 but may not vote on his or her own reappointment.

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

26 288.7075 Legislative findings and intent; assistance  
27 to minority business enterprises.--The Legislature finds that  
28 a public purpose is served by creating and providing state  
29 financial support for the public-private partnership known as  
30 the Florida Black Business Investment Board, as well as by  
31 providing financial support for the black business investment

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

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

15 288.708 President ~~Executive director~~; employees.--

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

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

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

31

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 the  
4 board may rely upon such certification.

5           (2) The board and its officers are responsible for the  
6 prudent use of all public and private funds and shall ensure  
7 that the use of such funds is in accordance with all  
8 applicable laws, bylaws, or contractual requirements. An  
9 employee of the board may not receive compensation for  
10 employment that exceeds the salary paid to the Governor,  
11 unless the board and the employee have executed a contract  
12 that prescribes specific and measurable performance outcomes  
13 for the employee, the satisfaction of which provides the basis  
14 for the award of incentive payments that increase the  
15 employee's total compensation to a level above the salary paid  
16 to the Governor.~~The executive director and all employees of~~  
17 ~~the 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 III 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 ~~ss. 9-21,~~  
26 ~~chapter 85-104, Laws of Florida,~~ including, but not limited  
27 to, the 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 ~~ss. 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; however provided, such investments will be made on  
3 behalf of the board by the Office of State Treasurer or by  
4 another 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 ~~ss. 9-21, chapter 85-104, Laws~~  
14 ~~of 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 ~~ss. 9-21, chapter 85-104, Laws~~  
6 ~~of 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, with emphasis on construction  
24 projects financed by focusing on federal, state, or and local  
25 governments government financed construction projects; and

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

31

1 Section 6. Section 288.7092, Florida Statutes, is  
2 created to read:

3 288.7092 Return on investment from activities of the  
4 board.--

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

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

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

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

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

1 than 70 percent of the state's investment by July 1, 2005; no  
2 less than 80 percent of the state's investment by July 1,  
3 2006; and no less than 100 percent of the state's investment  
4 by July 1, 2007.

5 (5) Private-sector support in operating the board  
6 includes:

7 (a) Cash given directly to the board for its operating  
8 budget.

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

13 (c) Cash generated by products or services of the  
14 board.

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

1           (6) The board shall fully comply with the performance  
2 measures, standards, and sanctions in its contracts with the  
3 Office of Tourism, Trade, and Economic Development. The office  
4 shall ensure, to the maximum extent possible, that the  
5 contract performance measures are consistent with performance  
6 measures that the office is required to develop and track  
7 under performance-based program budgeting.

8           (7) As part of the annual report required under s.  
9 288.714, the board shall provide the Legislature with  
10 information quantifying the public's return on investment.

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

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

24           288.711 Florida Investment Incentive Trust Fund.--

25           (1) There is hereby created the Florida Investment  
26 Incentive Trust Fund from which money may be drawn for  
27 investments or loans, as authorized by this section, to  
28 encourage the development of appropriate financial mechanisms  
29 in the private sector to capitalize and assist in the  
30 development of black business enterprises. All income earned  
31 by investments of the fund shall be deposited in the fund for

1 carrying out the purposes of ss. 288.707-288.714 ~~ss. 9-21,~~  
2 ~~chapter 85-104, Laws of Florida.~~ Administrative costs of the  
3 program shall be appropriated in a lump-sum appropriation from  
4 the fund created herein and shall be provided in the General  
5 Appropriations Act.

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

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

18 288.712 Florida guarantor funds.--

19 (3)

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

31

1           1. The board is authorized to post or pledge the  
2 assets of the Black Contractors Bond Trust Fund as collateral  
3 in amounts necessary to secure the issuance of bid bonds and  
4 construction contract bonds to black business enterprises.  
5 The board shall establish a premium to be charged to the black  
6 business enterprise for which the assets have been so posted  
7 or pledged, pursuant to generally accepted actuarial  
8 principles, and shall establish such rules as may otherwise be  
9 necessary to carry out the purposes of this section.

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

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

25           (4)

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

1 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida~~; all  
2 moneys recovered following defaults; and any other moneys  
3 obtained by the board for this purpose. The Black Business  
4 Loan Guaranty Trust Fund shall be administered by the board in  
5 trust for the purposes of this section and shall at no time be  
6 part of general public funds under the following procedures:  
7       1. The board shall utilize the Black Business Loan  
8 Guaranty Program Administrative and Loss Reserve Fund in the  
9 State Treasury, consisting of all premiums charged and  
10 collected in accordance with this section and any income  
11 earned from the moneys in the account. All expenses of the  
12 board in carrying out the purposes of this subsection shall be  
13 paid from the Black Business Loan Guaranty Program  
14 Administrative and Loss Reserve Fund. Any moneys to the  
15 credit of the Black Business Loan Guaranty Program  
16 Administrative and Loss Reserve Fund in excess of the amount  
17 necessary to fund the board's activity shall be held as a loss  
18 reserve to pay claims arising from defaults on loans  
19 underwritten in accordance with this section.  
20       2. Any claims against the state arising from defaults  
21 shall be payable initially from the Black Business Loan  
22 Guaranty Program Administrative and Loss Reserve Fund and,  
23 secondarily, from the Black Business Loan Guaranty Trust Fund.  
24       3. The board as loan guarantor may exercise all rights  
25 and powers of a company authorized by the Department of  
26 Insurance to guarantee loans but shall not be subject to any  
27 requirements of an insurance company under the Florida  
28 Insurance Code, nor to any rules of the Department of  
29 Insurance; however, the board shall refer to the insurance  
30 code and rules thereunder when designing and administering  
31 such program. The board shall follow sound actuarial

1 principles when administering this program. The board shall  
2 establish a premium for the loan guaranty and such rules as  
3 may be necessary to carry out the purposes of this section.

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

6 Section 9. Section 288.714, Florida Statutes, is  
7 amended to read:

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

- 15 (1) Operations and accomplishments of the board;
- 16 (2) The number of black business enterprises which  
17 participated during the past year in programs established or  
18 administered by the board;
- 19 (3) The number of black business enterprises receiving  
20 assistance from the board and the manner in which the  
21 assistance was received;
- 22 (4) The status of black business enterprises which  
23 participated in programs established or administered by the  
24 board;
- 25 (5) The total number of jobs represented by black  
26 business enterprises participating in programs established or  
27 administered by the board;
- 28 (6) Receipts and expenditures of the board during its  
29 most recent fiscal year in accordance with the categories or  
30 classifications established by the board for its operating and  
31 capital accounts;

1           (7) Assets and liabilities of the board at the end of  
2 its most recent fiscal year and the status of its trust funds;  
3 and

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

7           Section 10. Black Business Investment Board state  
8 employee leasing program.--

9           (1) The Department of Management Services shall  
10 establish a lease-agreement program under which an employee as  
11 of June 30, 2002, of the Black Business Investment Board  
12 created under chapter 85-104, Laws of Florida, retains his or  
13 her status as a state employee until a set date.

14           (2) The Department of Management Services shall  
15 establish the terms and conditions of the program and such  
16 lease agreements.

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

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

21           (c) Status as a state employee under a lease agreement  
22 as provided in this section expires on June 30, 2004, unless  
23 the employee voluntarily relinquishes his or her status as a  
24 state employee before that date.

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

27           288.9015 Enterprise Florida, Inc.; purpose; duties.--

28           (5) Enterprise Florida, Inc., shall incorporate the  
29 needs of small and minority businesses into the  
30 economic-development, international-trade and  
31 reverse-investment, and workforce-development responsibilities

1 assigned to the organization by this section. Where  
2 practicable and consistent with the expertise of the Black  
3 Business Investment Board, Enterprise Florida, Inc., shall  
4 contract with the board for the delivery of services in  
5 fulfillment of the responsibilities of Enterprise Florida,  
6 Inc., relating to small and minority businesses.

7 Section 12. The Black Business Investment Board shall  
8 report to the Legislature by January 1, 2004, on what efforts  
9 were made to include all minorities within the scope of  
10 activities by the board and the black business investment  
11 corporations.

12 Section 13. There is appropriated from the General  
13 Revenue Fund to the Office of Tourism, Trade, and Economic  
14 Development the sum of \$17.5 million in fiscal year 2002-2003  
15 for use by the Black Business Investment Board. Of such sum:

16 (1) Sixteen million dollars shall be divided equally  
17 among, and distributed by the board to, the black business  
18 investment corporations existing in this state on the  
19 effective date of this act;

20 (2) One million dollars shall be for use by the board  
21 for capitalizing programs of the board in support of black  
22 business enterprises and for facilitating the creation of  
23 black business investment corporations in communities that are  
24 not currently served by an existing black business investment  
25 corporation; and

26 (3) Five hundred thousand dollars shall be for use by  
27 the board for its operations.

28 Section 14. This act shall take effect July 1, 2002.  
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SENATE SUMMARY

Removes the Black Business Investment Board from the administration of the Office of Tourism, Trade, and Economic Development and establishes the board as a not-for-profit corporation. Revises the manner in which board members are appointed. Provides for a president to serve at the pleasure of the board. Provides for the board to establish the president's compensation. Requires that the board adopt an annual operating budget. Requires the board to secure certain amounts of private-sector support. Provides for current employees of the Black Business Investment Board to retain their status as state employees until a set date. Requires that Enterprise Florida, Inc., contract with the board for services with respect to small and minority businesses. (See bill for details.)