

By the Committee on Commerce and Economic Opportunities; and
Senator Holzendorf

310-1853-02

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

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

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

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22 Be It Enacted by the Legislature of the State of Florida:
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24 Section 1. Section 288.707, Florida Statutes, is
25 amended to read:

26 288.707 Florida Black Business Investment Board.--

27 (1) The Legislature finds that the public interest of
28 Florida will be served by the creation and growth of black
29 business enterprises by:

30 (a) Establishing a partnership between the public
31 sector and the private sector which seeks to leverage the

1 provision of state funds with funds and other resources from
2 private-sector businesses and other nonstate sources;

3 (b)(a) Increasing opportunities for employment of
4 blacks, as well as the population in general;

5 (c)(b) Providing role models and establishing business
6 networks for the benefit of future generations of aspiring
7 black entrepreneurs;

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

13 (e)(d) Taking measures to increase access of black
14 businesses to both debt and equity capital.

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

17 (a) "Black business enterprise" means any business
18 concern that ~~which~~ is organized to engage in commercial
19 transactions and that ~~which~~ is at least 51 percent owned by
20 one or more African-Americans ~~black Americans~~ as defined in s.
21 288.703 and whose management and daily operations are
22 controlled by such persons.

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

27 (c) "Consortium" means two or more financial
28 institutions that ~~which~~ jointly negotiate and agree to provide
29 assistance to black business enterprises as provided in ss.
30 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida.~~

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1 (3) There is ~~hereby~~ created a not-for-profit
2 corporation within the Office of Tourism, Trade, and Economic
3 ~~Development~~ a body politic and corporate to be known as the
4 Florida Black Business Investment Board, hereinafter referred
5 to as the "board," which shall be registered, incorporated,
6 organized, and operated in compliance with chapter 617 and
7 which is not a unit or entity of state government. ~~The board~~
8 ~~is hereby constituted a public instrumentality, and the~~
9 ~~exercise by the board of the powers conferred by ss. 9-21,~~
10 ~~chapter 85-104, Laws of Florida, shall be deemed to be the~~
11 ~~performance of an essential governmental function.~~

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

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

18 2. One member from the private sector appointed by the
19 President of the Senate, who must be experienced in investment
20 finance and business development and who shall serve a term of
21 2 years.

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

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

3 5. The vice chairman of Enterprise Florida, Inc., or
4 his or her designee, who shall be an ex officio, nonvoting
5 member, and who shall provide information, advice, and
6 guidance designed to enhance the coordination of activities of
7 Enterprise Florida, Inc., and the board.

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

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

18 (c) Any person appointed to fill a vacancy on the
19 board shall be appointed in a like manner and shall serve for
20 only the unexpired term. Any member shall be eligible for
21 reappointment.

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

1 (e) The board shall meet at least four times each
2 year, upon the call of the chairperson or the vice chairperson
3 or at the request of a majority of the membership. A majority
4 of the total number of all members fixed by paragraphs (a) and
5 (h) shall constitute a quorum. The board may take official
6 action by a majority vote of the members present at any
7 meeting at which a quorum is present.

8 (f)~~(e)~~ Members of the board shall serve without
9 compensation, but members, the president of the board, and
10 other board employees may be reimbursed for all reasonable,
11 necessary, and actual expenses as determined by the board
12 ~~shall be reimbursed for per diem and travel expenses in~~
13 ~~accordance with s. 112.061.~~

14 (g)~~(f)~~ Each member of the board who is not otherwise
15 required to file financial disclosure pursuant to s. 8, Art.
16 II of the State Constitution or s. 112.3144 shall file full
17 ~~and public~~ disclosure of financial interests pursuant to s.
18 112.3145 at the times and places and in the same manner
19 ~~required of elected constitutional officers under s. 8, Art.~~
20 ~~II of the State Constitution and any law implementing s. 8,~~
21 ~~Art. II of the State Constitution.~~

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

29 Section 2. Section 288.7075, Florida Statutes, is
30 created to read:
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1 288.7075 Legislative findings and intent; assistance
2 to minority business enterprises.--The Legislature finds that
3 a public purpose is served by creating and providing state
4 financial support for the public-private partnership known as
5 the Florida Black Business Investment Board, as well as by
6 providing financial support for the black business investment
7 corporations, in order to address the business-development
8 needs of black business enterprises. The Legislature further
9 finds, however, that the business-development needs of black
10 business enterprises are shared by other minority business
11 enterprises defined under s. 288.703. It is the intent of the
12 Legislature, therefore, that the board and the black business
13 investment corporations, notwithstanding any provisions in ss.
14 288.707-288.714 to the contrary, include minority business
15 enterprises within the scope of their duties,
16 responsibilities, and activities and report to the Governor
17 and the Legislature on their progress in assisting black
18 business enterprises and minority business enterprises.

19 Section 3. Section 288.708, Florida Statutes, is
20 amended to read:

21 288.708 President ~~Executive director~~; employees.--

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

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1 appropriate, except for appointment of the president.The
2 president ~~executive director~~:

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

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

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

11 (2) The board and its officers are responsible for the
12 prudent use of all public and private funds and shall ensure
13 that the use of such funds is in accordance with all
14 applicable laws, bylaws, or contractual requirements. An
15 employee of the board may not receive compensation for
16 employment that exceeds the salary paid to the Governor,
17 unless the board and the employee have executed a contract
18 that prescribes specific and measurable performance outcomes
19 for the employee, the satisfaction of which provides the basis
20 for the award of incentive payments that increase the
21 employee's total compensation to a level above the salary paid
22 to the Governor.~~The executive director and all employees of~~
23 ~~the board shall be exempt from the provisions of part II of~~
24 ~~chapter 110, and the executive director shall be subject to~~
25 ~~the provisions of part III of chapter 110.~~

26 Section 4. Section 288.709, Florida Statutes, is
27 amended to read:

28 288.709 Powers of the Florida Black Business
29 Investment Board.--The board shall have all the powers
30 necessary or convenient to carry out and effectuate the
31 purposes and provisions of ss. 288.707-288.714 ~~ss. 9-21,~~

1 ~~chapter 85-104, Laws of Florida~~, including, but not limited
2 to, the power to:

3 (1) Adopt bylaws for the regulation of its affairs and
4 the conduct of its business and adopt policies ~~rules~~ pursuant
5 ~~to ss. 120.536(1) and 120.54~~ to implement the provisions of
6 law conferring duties upon it. However, any proposed bylaws or
7 policies ~~rules~~ affecting the operation or administration or
8 financial well-being of any of the black business investment
9 corporations must first be approved by a majority of the black
10 business investment corporations.

11 (2) Adopt an official seal.

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

13 (4) Make and execute contracts and other instruments
14 necessary or convenient for the exercise of its power and
15 functions.

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

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

20 (7) Encourage financial institutions to participate in
21 consortia for the purpose of investing in black business
22 enterprises.

23 (8) Ensure that funds available to the board for
24 purposes set forth in ss. 288.707-288.714 ~~ss. 9-21, chapter~~
25 ~~85-104, Laws of Florida~~, are disbursed on a statewide basis
26 and are not concentrated in one geographical area.

27 ~~(9) Acquire real property or any interest therein, by~~
28 ~~purchase or foreclosure, where such acquisition is necessary~~
29 ~~or appropriate to protect or secure any investment or loan in~~
30 ~~which the board has an interest; to sell, transfer, and convey~~
31 ~~any such property to a buyer without regard to the provisions~~

1 ~~of chapters 253 and 270; and, in the event that such sale,~~
2 ~~transfer, or conveyance cannot be effected with reasonable~~
3 ~~promptness or at a reasonable price, to lease such property~~
4 ~~for occupancy by eligible persons.~~

5 (9)~~(10)~~ Invest any funds held in reserves or sinking
6 funds, or any funds not required for immediate disbursement,
7 in such investments as may be authorized for trust funds under
8 s. 215.47; however provided, such investments will be made on
9 behalf of the board by the Office of State Treasurer or by
10 another trustee appointed for that purpose.

11 (10)~~(11)~~ Appear in its own behalf before boards,
12 commissions, departments, or other agencies of municipal,
13 county, state, or Federal Government.

14 (11)~~(12)~~ Procure insurance or require bond against any
15 loss in connection with its property in such amounts and from
16 such insurers as may be necessary or desirable.

17 (12)~~(13)~~ Receive and accept from any federal, state,
18 or local agency grants, loans, or advances for, or in aid of,
19 the purposes of ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104,~~
20 ~~Laws of Florida~~, and to receive and accept contributions from
21 any source of either money, property, labor, or other things
22 of value, to be held, used, and applied for said purposes.

23 (13)~~(14)~~ Create, issue, and buy and sell stock,
24 evidences of indebtedness, and other capital participation
25 instruments; to hold such stock, evidences of indebtedness,
26 and capital participation instruments; and to underwrite the
27 creation of a capital market for these securities in a manner
28 designed to enhance development of capital ownership in the
29 target group.

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1 ~~(14)(15)~~ Provide and pay for such advisory services
2 and technical assistance as may be necessary or desirable to
3 carry out the purposes of this act.

4 ~~(15)(16)~~ Engage in special programs to enhance the
5 development of black business enterprises as authorized by
6 this act.

7 ~~(16)(17)~~ Promote black ownership of financial
8 institutions in Florida.

9 ~~(17)(18)~~ Take, hold, and improve property, including
10 real property.

11 ~~(18)(19)~~ Do any and all things necessary or convenient
12 to carry out the purposes of, and exercise the powers given
13 and granted in, ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104,~~
14 ~~Laws of Florida~~, and exercise any other powers, rights, or
15 responsibilities of a corporation.

16 Section 5. Section 288.7091, Florida Statutes, is
17 amended to read:

18 288.7091 Duties of the Florida Black Business
19 Investment Board.--The Florida Black Business Investment Board
20 shall:

21 (1) Establish certification criteria for black
22 business investment corporations. Certification criteria shall
23 include administrative capacity, fiduciary controls, and, in
24 the case of existing black business investment corporations,
25 solvency and soundness of prior loan decisions;

26 (2) Ensure that any appropriations by the Legislature
27 to the board on behalf of the black business investment
28 corporations are provided to the corporations in the manner
29 and amount prescribed by the Legislature;

30 (3) Work with Enterprise Florida, Inc., and local
31 economic development organizations to promote the retention

1 and expansion of existing black business enterprises and to
2 promote the formation and recruitment of new black business
3 enterprises;

4 (4)(2) Develop a memorandum of understanding with
5 Enterprise Florida, Inc., that outlines a strategy for
6 collaboration with the programs, activities, and committees or
7 similar units and boards of Enterprise Florida, Inc., which
8 memorandum of understanding shall provide for Enterprise
9 Florida, Inc., to contract with the board, where practicable,
10 for the delivery of economic development services relating to
11 black business enterprises;

12 (5)(3) Include in the criteria for loan decisions,
13 occupational forecasting results set forth in s. 216.136(9)
14 which target high growth jobs;

15 (6)(4) Facilitate the formation of black business
16 investment corporations in communities that are not currently
17 served by such corporations and establish, in communities that
18 are not currently served by an existing black business
19 investment corporation, memoranda of understanding with local
20 financial institutions that will provide loan guarantees for
21 loans to black business enterprises;

22 (7)(5) Develop memoranda of understanding with the
23 Departments of ~~Labor and Employment Security~~, Education,
24 Transportation, Community Affairs and Management Services, as
25 well as with Workforce Florida, Inc., and the Florida Board of
26 Education ~~State Board of Regents~~, detailing efforts of common
27 interest and collaborations to expand black business
28 development;

29 (8)(6) Intensify efforts to increase the number of
30 franchises owned by black businesses and the number of ~~the~~
31 black business enterprises in construction and

1 construction-related projects, with emphasis on construction
2 projects financed by focusing on federal, state, or and local
3 governments government financed construction projects; and
4 ~~(9)(7)~~ Annually, prepare a report detailing the
5 performance of each black business investment corporation,
6 addressing the number of jobs created and/or retained, success
7 and failure rates among loan recipients, and the amount of
8 funds leveraged from other sources.

9 Section 6. Section 288.7092, Florida Statutes, is
10 created to read:

11 288.7092 Return on investment from activities of the
12 board.--

13 (1) The public funds appropriated each year for the
14 operation of the board are invested in this public-private
15 partnership to enhance black business ownership and
16 investments in Florida. This policy shall be the Legislature's
17 priority consideration when reviewing the return on investment
18 for the board.

19 (2) It is also the intent of the Legislature that the
20 board coordinate its operations with Enterprise Florida, Inc.,
21 and with local economic development organizations to maximize
22 the state and local return on investment to create jobs for
23 Floridians.

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

27 (4)(a) The state's operating investment in the board
28 is the budget contracted by the Office of Tourism, Trade, and
29 Economic Development to the board, less funding that is
30 directed by the Legislature to be subcontracted to a specific
31 recipient.

1 (b) The board shall adopt for each upcoming fiscal
2 year an operating budget for the organization which specifies
3 the intended uses of the state's operating investment, other
4 sources of income, and a plan for securing private-sector
5 support to the board. Each fiscal year, private-sector support
6 to the board shall be as follows: no less than 50 percent of
7 the state's investment by July 1, 2003; no less than 60
8 percent of the state's investment by July 1, 2004; no less
9 than 70 percent of the state's investment by July 1, 2005; no
10 less than 80 percent of the state's investment by July 1,
11 2006; and no less than 100 percent of the state's investment
12 by July 1, 2007.

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

15 (a) Cash given directly to the board for its operating
16 budget.

17 (b) Cash jointly raised by the board and a local
18 economic development organization, a group of such
19 organizations, or a statewide business organization that
20 supports collaborative projects.

21 (c) Cash generated by products or services of the
22 board.

23 (d) In-kind contributions directly to the board,
24 including private-sector equipment contributed as part of
25 technical assistance; goods and services, including time
26 donated by loan officers, advertising or marketing support,
27 and items used to promote the board; business expenditures;
28 business services provided; business support; and other
29 business contributions that augment the operations, program,
30 activities, or assets of the board, including, but not limited
31 to, an individual's time and expertise, sponsored

1 publications, private-sector staff services, payment for
2 advertising placements, sponsorship of events, sponsored or
3 joint research, discounts on leases or purchases, mission or
4 program sponsorship, copayments, stock, warrants, royalties,
5 or other private resources dedicated to the board,
6 low-interest loans, participations, investment income, equity
7 investments, and the economic impact of board investments and
8 job creation and retention.

9 (6) The board shall fully comply with the performance
10 measures, standards, and sanctions in its contracts with the
11 Office of Tourism, Trade, and Economic Development. The office
12 shall ensure, to the maximum extent possible, that the
13 contract performance measures are consistent with performance
14 measures that the office is required to develop and track
15 under performance-based program budgeting.

16 (7) As part of the annual report required under s.
17 288.714, the board shall provide the Legislature with
18 information quantifying the public's return on investment.

19 (8) The board, in consultation with the Office of
20 Program Policy Analysis and Government Accountability, shall
21 hire a private accounting firm or economic analysis firm to
22 develop the methodology for establishing and reporting return
23 on investment and in-kind contributions as described in this
24 section. The Office of Program Policy Analysis and Government
25 Accountability shall review and offer feedback on the
26 methodology before it is implemented. The private accounting
27 firm or economic analysis firm shall certify whether the
28 applicable statements in the annual report comply with this
29 section.

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

1 288.711 Florida Investment Incentive Trust Fund.--

2 (1) There is hereby created the Florida Investment
3 Incentive Trust Fund from which money may be drawn for
4 investments or loans, as authorized by this section, to
5 encourage the development of appropriate financial mechanisms
6 in the private sector to capitalize and assist in the
7 development of black business enterprises. All income earned
8 by investments of the fund shall be deposited in the fund for
9 carrying out the purposes of ss. 288.707-288.714 ~~ss. 9-21,~~
10 ~~chapter 85-104, Laws of Florida~~. Administrative costs of the
11 program shall be appropriated in a lump-sum appropriation from
12 the fund created herein and shall be provided in the General
13 Appropriations Act.

14 (4) All loans and investments, and any income related
15 thereto, shall be used to carry out the public purpose of ss.
16 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida,~~
17 which is to develop black business enterprises. This is not
18 meant to preclude a reasonable profit for the participating
19 black business investment corporation or for return of equity
20 developed to the state and participating financial
21 institutions upon any distribution of the assets or excess
22 income of the investment corporation.

23 Section 8. Paragraph (b) of subsection (3) and
24 paragraph (b) of subsection (4) of section 288.712, Florida
25 Statutes, are amended to read:

26 288.712 Florida guarantor funds.--

27 (3)

28 (b) For purposes of this section, the board may
29 utilize the Black Contractors Bond Trust Fund in the State
30 Treasury, consisting of moneys deposited or credited to the
31 Black Contractors Bond Trust Fund pursuant to appropriation

1 made by law; any grants, gifts, and contributions received
2 pursuant to ss. 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws~~
3 ~~of Florida~~; all moneys recovered following defaults; and any
4 other moneys obtained by the board for this purpose. The fund
5 shall be administered by the board in trust for the purposes
6 of this section and shall at no time be part of general public
7 funds under the following procedures:

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

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

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

1 (4)

2 (b) If the board chooses to establish a loan guaranty
3 program, it shall use ~~utilize~~ the Black Business Loan Guaranty
4 Trust Fund in the State Treasury, consisting of moneys
5 deposited or credited to the Black Business Loan Guaranty
6 Trust Fund pursuant to appropriation made by law; any grants,
7 gifts, and contributions received pursuant to ss.
8 288.707-288.714 ~~ss. 9-21, chapter 85-104, Laws of Florida~~; all
9 moneys recovered following defaults; and any other moneys
10 obtained by the board for this purpose. The Black Business
11 Loan Guaranty Trust Fund shall be administered by the board in
12 trust for the purposes of this section and shall at no time be
13 part of general public funds under the following procedures:

14 1. The board shall utilize the Black Business Loan
15 Guaranty Program Administrative and Loss Reserve Fund in the
16 State Treasury, consisting of all premiums charged and
17 collected in accordance with this section and any income
18 earned from the moneys in the account. All expenses of the
19 board in carrying out the purposes of this subsection shall be
20 paid from the Black Business Loan Guaranty Program
21 Administrative and Loss Reserve Fund. Any moneys to the
22 credit of the Black Business Loan Guaranty Program
23 Administrative and Loss Reserve Fund in excess of the amount
24 necessary to fund the board's activity shall be held as a loss
25 reserve to pay claims arising from defaults on loans
26 underwritten in accordance with this section.

27 2. Any claims against the state arising from defaults
28 shall be payable initially from the Black Business Loan
29 Guaranty Program Administrative and Loss Reserve Fund and,
30 secondarily, from the Black Business Loan Guaranty Trust Fund.

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1 3. The board as loan guarantor may exercise all rights
2 and powers of a company authorized by the Department of
3 Insurance to guarantee loans but shall not be subject to any
4 requirements of an insurance company under the Florida
5 Insurance Code, nor to any rules of the Department of
6 Insurance; however, the board shall refer to the insurance
7 code and rules thereunder when designing and administering
8 such program. The board shall follow sound actuarial
9 principles when administering this program. The board shall
10 establish a premium for the loan guaranty and such rules as
11 may be necessary to carry out the purposes of this section.

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

14 Section 9. Section 288.714, Florida Statutes, is
15 amended to read:

16 288.714 Annual report.--By February 1 ~~March 31~~ of each
17 year the board shall submit to the Governor, the President of
18 the Senate, the Speaker of the House of Representatives, and
19 the director of the Office of Tourism, Trade, and Economic
20 Development ~~and the secretary of the Department of Labor and~~
21 ~~Employment Security~~ a complete and detailed report setting
22 forth:

23 (1) Operations and accomplishments of the board;

24 (2) The number of black business enterprises which
25 participated during the past year in programs established or
26 administered by the board;

27 (3) The number of black business enterprises receiving
28 assistance from the board and the manner in which the
29 assistance was received;

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1 (4) The status of black business enterprises which
2 participated in programs established or administered by the
3 board;

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

7 (6) Receipts and expenditures of the board during its
8 most recent fiscal year in accordance with the categories or
9 classifications established by the board for its operating and
10 capital accounts;

11 (7) Assets and liabilities of the board at the end of
12 its most recent fiscal year and the status of its trust funds;
13 and

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

17 Section 10. Black Business Investment Board state
18 employee leasing program.--

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

24 (2) The Department of Management Services shall
25 establish the terms and conditions of the program and such
26 lease agreements.

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

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

31

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

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

7 288.9015 Enterprise Florida, Inc.; purpose; duties.--

8 (5) Enterprise Florida, Inc., shall incorporate the
9 needs of small and minority businesses into the
10 economic-development, international-trade and
11 reverse-investment, and workforce-development responsibilities
12 assigned to the organization by this section. Where
13 practicable and consistent with the expertise of the Black
14 Business Investment Board, Enterprise Florida, Inc., shall
15 contract with the board for the delivery of services in
16 fulfillment of the responsibilities of Enterprise Florida,
17 Inc., relating to small and minority businesses.

18 Section 12. The Black Business Investment Board shall
19 report to the Legislature by January 1, 2004, on what efforts
20 were made to include all minorities within the scope of
21 activities by the board and the black business investment
22 corporations.

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

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

31

1 (2) One million dollars shall be for use by the board
2 for capitalizing programs of the board in support of black
3 business enterprises and for facilitating the creation of
4 black business investment corporations in communities that are
5 not currently served by an existing black business investment
6 corporation; and

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

9 Section 14. This act shall take effect July 1, 2002.

10
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 386

14 The committee substitute makes the following changes to SB
15 386:

16 1) Corrects a reference in existing law to a non-existent
17 definition of black American and uses the term
18 African-American instead;

19 2) Reconciles the initial terms for board members appointed
20 by the Governor with the Governor's authority to appoint 6
21 board members;

22 3) Eliminates laws governing the acquisition and disposition
23 of land by Florida government agencies that are inapplicable
24 to public-private partnerships having all the powers of a
25 corporation to acquire and dispose of land; and

26 4) Corrects existing law by replacing an obsolete reference
27 to the State Board of Regents with the Florida Board of
28 Education.
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