

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1695 with CS Florida Black Business Investment Board
SPONSOR(S): Smith
TIED BILLS: **IDEN./SIM. BILLS:** SB 2624

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Workforce and Economic Development (Sub)</u>	<u>5 Y, 0 N</u>	<u>Winker</u>	<u>Whitfield</u>
2) <u>Commerce</u>	<u>15 Y, 0 N w/CS</u>	<u>Winker</u>	<u>Whitfield</u>
3) <u>Commerce and Local Affairs Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 1695 makes a number of revisions to the statutes governing the Black Business Investment Board (BBIB).

The bill adds the Black Business Investment Board and Black Business Investment Corporations (BBIC) to a list of financial institutions willing to participate in the Florida Minority Business Loan Mobilization Program maintained by the Department of Management Services.

Currently, the adoption of bylaws or policies which would affect BBICs must be approved by a majority of those corporations. The bill deletes this requirement to reflect the new membership of the BBIB board which includes three chairmen of the Black Business Investment Corporations (BBIC).

The BBIB is required to establish criteria for the certification of BBICs but is silent regarding its duty to certify those organizations. This bill requires that the BBIB certify each of the BBICs at least once every five years.

As a non-profit organization, the BBIB does not have authority to adopt rules. The bill reflects the transition of the BBIB from an entity within government to the private sector by authorizing the BBIB to adopt policies, rather than rules, relating to criteria used by the BBIB evaluate applications for financial assistance.

The annual report of the BBIB is due on February 1 of each year. The bill revises the due date of the BBIB's annual report from February 1 to May 1, of each year.

There is no fiscal impact and bill takes effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1695b.com.doc
DATE: April 21, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

HB 1695 makes a number of revisions to the statutes governing the Black Business Investment Board (BBIB).

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Currently, the adoption of bylaws or policies which would affect Black Business Investment Corporations (BBIC) must be approved by a majority of those corporations. The bill deletes this requirement to reflect the new membership of the BBIB which includes three chairmen of the BBICs.

The BBIB is required to establish criteria for the certification of BBICs but is silent regarding its duty to certify those organizations. The bill requires that the BBIB certify each of the BBICs at least once every five years.

As a non-profit organization, the BBIB does not have authority to adopt rules. This bill reflects the transition of the BBIB from an entity within government to the private sector by authorizing the BBIB to adopt policies, rather than rules, relating to criteria used by the BBIB to evaluate applications for financial assistance.

The annual report of the BBIB is currently due on February 1 of each year. This bill revises the due date of the annual report from February 1 to May 1, of each year.

Florida Black Business Investment Board

The Florida Black Business Investment Board was created in 1985 [ch. 85-104, L.O.F.]. In 2002, the Florida Black Business Investment Board (BBIB or corporation) was removed from the Office of Tourism, Trade, and Economic Development and became a non-profit corporation. The BBIB was created to encourage the growth of small and minority businesses by removing unnecessary burdens imposed upon these businesses and by aggressively promoting an atmosphere conducive to their development.

In 2002, membership on the BBIB was expanded and the membership appointment process was diversified. Appointments to the board are as follows: six members appointed by the Governor; one member appointed by the President of the Senate; one member appointed by the Speaker of the House; three chairmen of black business investment corporations selected by the chairmen of the black

business investment corporations; the vice chairman of Enterprise Florida, Inc., serving as an ex officio non-voting member; the chair of the Florida Development Finance Corporation serving as an ex officio non-voting member; and two at-large members, who may be appointed by a board resolution.

The legislature directed that the BBIB and Black Business Investment Corporations [see below] include all minority business enterprises within the scope of their duties. Directory instructions were given to Enterprise Florida, Inc., to contract with the BBIB for the delivery of economic development services relating to black business enterprises. Criteria were provided to measure Florida's return on investment from activities of the BBIB.

The BBIB is required to seek private sector support that will equal the state's support by July 1, 2007. During the transition from a state entity to a non-profit corporation, the BBIB was authorized to lease its employees who were employed prior to the effective date of the 2002 legislation from the Department of Management Services until June 30, 2004.

The BBIB and BBICs are required to include businesses that are 51 percent or more owned by Hispanic Americans, Asian Americans, Native Americans, and American women within the scope of their duties. Because the BBIB is required to include all minority business enterprises within the scope of its duties, it is directed to work with similar organizations to promote minority business enterprises and work to increase the number of franchises owned by all minorities. Enterprise Florida, Inc., is also directed to contract with the BBIB for the delivery of economic development services to small and minority-owned business.

The legislation required the BBIB and the BBICs to submit an annual report to the Governor and the Legislature detailing their progress in assisting black business enterprises and minority business enterprises.

Funds appropriated by the Legislature to the BBIB form the basis for determining the state's return on investment. The BBIB is required to seek private-sector support that will match the state's annual investment by July 1, 2007. Private-sector support includes cash given to the BBIB, cash jointly raised by the BBIB and with other organizations, and cash generated from the BBIB's products or services and in-kind contributions.

The 2002 legislation required the BBIB to hire an accounting firm in consultation with the Office of Program Policy Analysis and Government Accountability and to develop a methodology for determining the state's return on investment and the value of in-kind contributions. The BBIB is required to quantify the state's return on investment in its annual report to the Legislature.

On September 2002, KPMG Consulting provided the BBIB with a report for a study of the BBIB and related matters as required by the 2002 legislation. KPMG assisted the BBIB in identifying needs for minority business and in developing a funding formula for allocating capitalization appropriations across minority-owned business and the BBICs. KPMG also developed an economic impact model for the BBIB so that it can report on its return on investment.

According to the KPMG report, since its inception in 1985, the BBIB has received about \$22 million in state funds. These funds have been distributed across BBIB operations (\$7.6 million), capitalization for the statewide BBIC (\$4.8 million), and capitalization for the eight regional BBICs (\$9.85 million). Operating funds for the BBIB come primarily from revenues generated from interest on investments and loans, fees, loan recoveries, municipal grants and contracts, and donations and contributions.

From FY 1996-97 to FY 1999-2000, regional BBIC's direct loan guarantee portfolio grew from \$11.2 million to \$13.9 million. Average loan size to minority-owned businesses increased over this time from \$58,622 to \$66,517. BBIB reported to KPMG that total jobs created and retained as part of its efforts was in excess of 7,200 from a total; loan disbursement of \$51.2 million.

The Black Business Investment Corporations

The Black Business Investment Corporations (BBIC) are subsidiaries of financial institutions or a consortium of financial institutions investing in or lending to black business enterprises. Specifically, a BBIC provides loan guarantees and directs lending products to black business enterprises. The BBIB has a non-voting investment interest in each of the eight current regional BBICs.

Florida Minority Business Loan Mobilization Program

The 2002 Legislature created the Florida Minority Business Loan Mobilization Program [Chapter 2002-303, Laws of Florida] to provide a mechanism to advance a portion of the base state contract award amount to a minority business enterprise vendor to be used to assist that vendor in obtaining working capital. The program [section 288.706, F.S.], administered by the Department of Management Services, is intended to assist minority business enterprise vendors in fulfilling state contracts for goods and services. Minority business enterprise vendors may only apply to participate in the program after being awarded a state agency contract.

The program provides that the contracting state agency can advance a portion of the base contract award amount (up to 10%) to a minority business enterprise to be used to obtain working capital financing. Once a minority business enterprise vendor is awarded a contract, the vendor may apply to a participating financial institution to obtain working capital financing. Under the program, the Department of Management Services is authorized to maintain a listing of participating financial institutions and vendors are encouraged to recruit financial institutions with which they have a working relationship to participate in the program [s. 288.706(11), F.S.].

C. SECTION DIRECTORY:

SECTION 1. Amends subsection (11) of s. 288.706, F.S., to authorize the Florida Black Business Investment Board, Inc., and Florida Black Business Corporations to participate in the Florida Minority Business Loan Mobilization Program.

SECTION 2. Amends subsection (1) of s. 288.709, F.S., to delete a provision requiring to approval of proposed bylaws or policies affecting Black Business Investment Corporations (BBIC) to be approved by a majority of those corporations.

SECTION 3. Amends subsection (1) of section 288.7091, F.S., to require that the Black Business Investment Board (BBIB) certify each of the BBICs at least once every five years.

SECTION 4. Amends s. 288.71, F.S., to authorize the BBIB to adopt policies, rather than rules, relating to criteria used by the BBIB to evaluate applications for financial assistance.

SECTION 5. Amends s. 288.714, F.S., to revise the due date of the BBIB's annual report from February 1 to May 1, of each year.

SECTION 6. Provides an effective date of on becoming a law

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The purpose of the Black Business Investment Board and its partners is to assist in the provision of funding for minority-owned businesses which will have a positive fiscal impact upon the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the BBIB to adopt policies instead of rules since the BBIB is now a non-profit corporation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, 2003, the Commerce Committee adopted an amendment to HB 1695 which added the Florida Black Business Investment Board and Black Business Investment Corporations (BBIC) to a list of financial institutions willing to participate in the Florida Minority Business Loan Mobilization Program maintained by the Department of Management Services.