

Bill No. SB 1074

Barcode 293554 Comm: FAV 03/15/2007 07:48 PM

605-2023A-07

Proposed Committee Substitute by the Committee on Higher  
Education Appropriations

1                                   A bill to be entitled

2           An act relating to the State University

3           Research Commercialization Program; creating s.

4           288.9621, F.S.; creating the program for the

5           purpose of promoting the commercialization of

6           university research products; authorizing the

7           use of program funds to secure patents,

8           establish start-up companies, develop license

9           agreements, and support other activities for

10          the purpose of marketing products resulting

11          from university research; creating s. 288.9622,

12          F.S.; creating the State University Research

13          Commercialization Funding Corporation as a

14          not-for-profit corporation; providing

15          requirements for the corporation with respect

16          to corporate governance and a code of ethics

17          for officers and employees; requiring that the

18          State Board of Administration provide

19          administrative support to the corporation;

20          providing for a board of directors to be

21          appointed by the Governor, the President of the

22          Senate, and the Speaker of the House of

23          Representatives; providing for terms of office;

24          requiring financial disclosure by the board of

25          directors; prohibiting certain conflicts of

26          interest during and after service on the board

27          of directors; authorizing board members to

28          receive reimbursement for per diem and travel

29          expenses; providing for the appointing officer

30          to remove a member of the board of directors

31          for cause; providing requirements for the

Bill No. SB 1074

Barcode 293554

605-2023A-07

1 organization and meetings of the board of  
2 directors; specifying the powers and duties of  
3 the corporation; requiring the corporation to  
4 invest certain funds; providing requirements  
5 for the award of grants; requiring an annual  
6 report to the Governor and the Legislature;  
7 providing that disbursement of funds by the  
8 corporation is not a debt or obligation of the  
9 state or a political subdivision thereof;  
10 prohibiting the corporation from incurring  
11 debt; creating s. 288.9623, F.S.; creating the  
12 State University Research Commercialization  
13 Assistance Grants; providing for the award of  
14 grants under specified categories and in  
15 certain amounts; requiring matching funds under  
16 certain circumstances; creating s. 288.9624,  
17 F.S.; providing a process for the application  
18 and approval of grants; requiring that the  
19 corporation solicit proposals from state  
20 universities; providing requirements for the  
21 corporation in making final determinations for  
22 awarding grants; providing requirements for  
23 evaluating proposals; providing for funding the  
24 program through the General Appropriations Act;  
25 providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Section 288.9621, Florida Statutes, is  
30 created to read:

31 288.9621 State University Research Commercialization

605-2023A-07

1 Program.--

2       (1) The State University Research Commercialization  
3 Program is established to promote the commercialization of  
4 university research products for the purpose of enhancing the  
5 state's economy and the state's public universities.

6       (2) A state university may apply for funding through  
7 the not-for-profit corporation established in s. 288.9622 for  
8 the purpose of developing products and services resulting from  
9 university research. An application may include joint  
10 participation in the development of products and services by a  
11 cooperating university. Such funding may be used by the  
12 university to secure patents, establish start-up companies,  
13 develop license agreements, attract private investment, and  
14 support other activities that are necessary to establish  
15 commercially viable ventures for the marketing and sale of  
16 products resulting from university research.

17       Section 2. Section 288.9622, Florida Statutes, is  
18 created to read:

19       288.9622 State University Research Commercialization  
20 Funding Corporation.--

21       (1) CREATION.--There is created a not-for-profit  
22 corporation known as the State University Research  
23 Commercialization Funding Corporation, which shall be  
24 registered, incorporated, organized, and operated under  
25 chapter 617.

26       (a) The corporation is not a unit or entity of state  
27 government. However, the corporation is subject to the  
28 provisions of s. 24, Art. I of the State Constitution and  
29 chapter 119, relating to public meetings and records, and the  
30 provisions of chapter 286 relating to public meetings and  
31 records.

605-2023A-07

1           (b) The corporation must establish at least one  
2 corporate office in this state and appoint a registered agent.

3           (c) The corporation shall hire or contract for all  
4 staff necessary for the proper execution of its powers and  
5 duties within the funds appropriated to implement ss.  
6 288.9621-288.9624 and shall require that all officers,  
7 directors, and employees of the corporation comply with the  
8 code of ethics for public officers and employees under part  
9 III of chapter 112. In no case may the corporation expend more  
10 than \$300,000 per year for staffing and necessary  
11 administrative expenditures, including, but not limited to,  
12 travel and per diem and audit expenditures, using funds  
13 appropriated to administer this section.

14           (d) The State Board of Administration shall provide  
15 administrative support to the corporation as requested by the  
16 corporation. In the event of the dissolution of the  
17 corporation, the State Board of Administration shall be the  
18 corporation's successor in interest and shall assume all  
19 rights, duties, and obligations of the corporation under any  
20 contract to which the corporation is then a party and under  
21 law.

22           (2) PURPOSE.--The corporation shall be organized to  
23 receive, hold, invest, administer, and disburse funds  
24 appropriated by the Legislature for the State University  
25 Research Commercialization Program.

26           (3) BOARD; MEMBERSHIP.--The corporation shall be  
27 governed by a board of directors.

28           (a) The board of directors shall consist of nine  
29 voting members, of whom the Governor shall appoint three, the  
30 President of the Senate shall appoint three, and the Speaker  
31 of the House of Representatives shall appoint three.

Bill No. SB 1074

Barcode 293554

605-2023A-07

1           (b) To be eligible for appointment to the board of  
2 directors, an individual must have prior experience in early  
3 stage business investment, corporate management, the fiduciary  
4 management of investment funds, or the commercialization of  
5 research products.

6           (c) Each member of the board of directors shall be  
7 appointed to a 4-year term, except that initially the  
8 Governor, the President of the Senate, and the Speaker of the  
9 House of Representatives shall each appoint one member for a  
10 term of 1 year, one member for a term of 2 years, and one  
11 member for a term of 4 years in order to achieve staggered  
12 terms among the members of the board. The Governor, the  
13 President of the Senate, and the Speaker of the House of  
14 Representatives shall make their initial appointments to the  
15 board by July 31, 2007.

16           (d) The Governor, the President of the Senate, or the  
17 Speaker of the House of Representatives, respectively, shall  
18 fill a vacancy on the board of directors, according to who  
19 appointed the member whose vacancy is to be filled or whose  
20 term has expired. A vacancy that occurs before the scheduled  
21 expiration of the term of the member shall be filled for the  
22 remainder of the unexpired term.

23           (e) Each member of the board of directors who is not  
24 otherwise required to file financial disclosure under s. 8,  
25 Art. II of the State Constitution or s. 112.3144 shall file  
26 disclosure of financial interests under s. 112.3145.

27           (f) A person appointed to the board of directors must  
28 agree to refrain from having any direct interest in any  
29 contract, franchise, privilege, or other benefit arising from  
30 a university project receiving funding from the board during  
31 the term of his or her appointment and for 3 years after the

605-2023A-07

1 termination of such appointment. It is a misdemeanor of the  
 2 first degree, punishable as provided in s. 775.082 or s.  
 3 775.083, for a person to accept appointment to the board of  
 4 directors in violation of this paragraph or to accept a direct  
 5 interest in any contract, franchise, privilege, or other  
 6 benefit granted by the institution or affiliate within 3 years  
 7 after the termination of his or her service on the board.

8 (g) Each member of the board of directors shall serve  
 9 without compensation, but is entitled to receive travel and  
 10 per diem expenses as provided in s. 112.061 while in the  
 11 performance of his or her duties.

12 (h) Each member of the board of directors is  
 13 accountable for the proper performance of the duties of  
 14 office, and each member owes a fiduciary duty to the people of  
 15 the state to ensure that funds provided in furtherance of this  
 16 section are disbursed and used as prescribed by law and  
 17 contract. The Governor, the President of the Senate, or the  
 18 Speaker of the House of Representatives, according to which  
 19 officer appointed the member, may remove a member for  
 20 malfeasance, misfeasance, neglect of duty, incompetence,  
 21 permanent inability to perform official duties, unexcused  
 22 absence from three consecutive meetings of the board, arrest  
 23 or indictment for a crime that is a felony or a misdemeanor  
 24 involving theft or a crime of dishonesty, or pleading nolo  
 25 contendere to, or being found guilty of, any crime.

26 (4) ORGANIZATION; MEETINGS.--

27 (a)1. The board of directors shall annually elect a  
 28 chairperson and a vice chairperson from among the board's  
 29 members. The members may, by a vote of five of the nine board  
 30 members, remove a member from the position of chairperson or  
 31 vice chairperson prior to the expiration of his or her term as

Bill No. SB 1074

Barcode 293554

605-2023A-07

1 chairperson or vice chairperson. His or her successor shall be  
2 elected to serve for the balance of the removed chairperson's  
3 or vice chairperson's term.

4 2. The chairperson shall ensure that records are kept  
5 of the proceedings of the board of directors and is the  
6 custodian of all books, documents, and papers filed with the  
7 board; the minutes of meetings of the board; and the official  
8 seal of the corporation.

9 (b)1. The board of directors shall meet upon the call  
10 of the chairperson or at the request of a majority of the  
11 members, but no less than two times per calendar year if a  
12 university request for funding pursuant to this section is  
13 pending.

14 2. A majority of the voting members of the board of  
15 directors constitutes a quorum. Except as otherwise provided  
16 in this section, the board may take official action by a  
17 majority vote of the members present at any meeting at which a  
18 quorum is present. Members may not vote by proxy.

19 3. A member of the board may participate in a meeting  
20 of the board by telephone or videoconference through which  
21 each member may hear every other member.

22 (5) POWERS AND DUTIES.--The corporation is organized  
23 to receive, hold, invest, administer, and disburse funds  
24 appropriated by the Legislature in support of ss.  
25 288.9621-288.9624 and to disburse any income generated from  
26 the investment of these funds consistent with the purpose and  
27 provisions of this section. In addition to the powers and  
28 duties prescribed in chapter 617 and the articles and bylaws  
29 adopted under that chapter, the corporation:

30 (a) May make and enter into contracts and assume any  
31 other functions that are necessary to carry out the provisions

605-2023A-07

1 of this section.

2 (b) May enter into leases and contracts for the  
3 purchase of real property and hold notes, mortgages,  
4 guarantees, or security agreements to secure the performance  
5 of obligations of the grantee under a contract.

6 (c) May perform all acts and things necessary or  
7 convenient to carry out the powers expressly granted in ss.  
8 288.9621-288.9624 and in a contract entered into between the  
9 corporation and a grantee.

10 (d) May make expenditures from funds provided by the  
11 Legislature, including any necessary administrative  
12 expenditures consistent with its powers.

13 (e) May indemnify, and purchase and maintain insurance  
14 on behalf of, directors, officers, and employees of the  
15 corporation against any personal liability or accountability.

16 (f) Shall disburse funds pursuant to the provisions of  
17 this section and a contract entered into between the  
18 corporation and a grantee.

19 (g) Shall receive and review reports and financial  
20 documentation provided by a grantee to ensure compliance with  
21 the provisions of this section and provisions of a contract.

22 (h) Shall prepare an annual report as prescribed in  
23 subsection (8).

24 (i) May accept gifts, grants, donations, in-kind  
25 services, or other goods and services for carrying out its  
26 purposes.

27 (6) INVESTMENT OF FUNDS.--The corporation must enter  
28 into an agreement with the State Board of Administration under  
29 which funds received by the corporation which are not  
30 disbursed to a grantee shall be invested by the State Board of  
31 Administration on behalf of the corporation. Funds shall be

605-2023A-07

1 invested in suitable instruments authorized under s. 215.47  
2 and specified in investment guidelines established and agreed  
3 to by the State Board of Administration and the corporation.

4 (7) CONTRACTS FOR THE AWARD OF GRANTS.--

5 (a) The corporation shall negotiate and execute  
6 contracts with state universities governing the terms of  
7 grants provided pursuant to ss. 288.9621-288.9624. The  
8 corporation may not execute the contract unless the contract  
9 is approved by the affirmative vote of at least six of the  
10 nine members of the board of directors.

11 (b) Each contract, at a minimum, must contain  
12 provisions:

13 1. Specifying the procedures and schedules that govern  
14 the disbursement of funds under this section and specifying  
15 the conditions or deliverables that the state university must  
16 satisfy before the release of each disbursement.

17 2. Requiring the state university to submit to the  
18 corporation a business plan in a form and manner prescribed by  
19 the corporation.

20 3. Requiring the state university to submit data to  
21 the corporation concerning the activities and performance of  
22 projects funded pursuant to this section and to provide to the  
23 corporation an annual accounting of the expenditure of funds  
24 disbursed under this section.

25 4. Requiring grant recipients to negotiate repayment  
26 to the State University Research Commercialization Trust Fund  
27 of the amount of the grant awarded to a project when the  
28 project generates sufficient revenues to sustain a profitable  
29 operation.

30 (8) ANNUAL REPORT.--By December 1 of each year, the  
31 corporation shall prepare a report of the activities and

605-2023A-07

1 outcomes under ss. 288.9621-288.9624 for the preceding fiscal  
2 year. The report, at a minimum, must include:

3 (a) An accounting of the amount of grants awarded and  
4 disbursed during the preceding fiscal year by project and  
5 university.

6 (b) Information concerning the amount and nature of  
7 economic activity generated through projects receiving funding  
8 pursuant to ss. 288.9621-288.9624.

9 (c) Project level summaries of the information  
10 reported by grant recipients in paragraph (7)(b).

11 (d) An accounting of funds disbursed during the  
12 preceding fiscal year for staffing, administration, and  
13 operational costs of the corporation.

14  
15 The corporation shall submit the report to the Governor, the  
16 President of the Senate, and the Speaker of the House of  
17 Representatives.

18 (9) LIABILITY.--

19 (a) The appropriation or disbursement of funds under  
20 this section does not constitute a debt, liability, or  
21 obligation of the State of Florida, any political subdivision  
22 thereof, or the corporation or a pledge of the faith and  
23 credit of the state or of any such political subdivision.

24 (b) The appropriation or disbursement of funds under  
25 this section does not subject the State of Florida, any  
26 political subdivision thereof, or the corporation to liability  
27 related to the research activities and research products that  
28 receive funding pursuant to this section.

29 (10) DEBT.--The corporation is prohibited from  
30 incurring debt. This prohibition includes long-term leases,  
31 promissory notes, loans, lease-purchase agreements,

Bill No. SB 1074

Barcode 293554

605-2023A-07

1 certificates of participation, the sale of bonds or revenue  
2 bonds, and the award or commitment to award grants in excess  
3 of the unencumbered cash balance in the State University  
4 Research Commercialization Trust Fund.

5 Section 3. Section 288.9623, Florida Statutes, is  
6 created to read:

7 288.9623 State University Research Commercialization  
8 Assistance Grants.--State University Research  
9 Commercialization Assistance Grants are established to provide  
10 early stage capital funding to support the commercialization  
11 of university research products. Grants may be provided under  
12 the following categories:

13 (1) Phase One grants, which may not exceed \$50,000 per  
14 project, shall be used to assist with early market research,  
15 independent evaluation, consultation, and other initial  
16 activities that may be required to develop an initial business  
17 model for a university research product that has the potential  
18 for commercialization.

19 (2) Phase Two grants, which may not exceed \$100,000  
20 per project, shall be available to match private investment in  
21 a university research commercialization proposal that has been  
22 successfully evaluated and developed into the level of  
23 readiness contemplated for projects that have received Phase  
24 One grants. Phase Two grants shall be used to assist with the  
25 development of a complete business plan for the  
26 commercialization of a university research product. One dollar  
27 in private support is required to match each \$1 in state  
28 funding provided for a Phase Two grant.

29 (3) Phase Three grants, which may not exceed \$250,000  
30 per project, shall be available to match private investment  
31 relating to the implementation and execution of a completed

605-2023A-07

1 business plan for a university research product. One dollar in  
2 private support is required to match each \$1 in state funding  
3 provided for a Phase Three grant.

4 Section 4. Section 288.9624, Florida Statutes, is  
5 created to read:

6 288.9624 Process for the application and approval of  
7 State University Research Commercialization Assistance  
8 Grants.--

9 (1) Based on the availability of funds, the  
10 corporation shall periodically solicit proposals from state  
11 universities for grants through the State University Research  
12 Commercialization Program.

13 (a) The corporation shall solicit proposals from state  
14 universities and meet for the purpose of awarding grants once  
15 every 6 months when the uncommitted balance exceeds \$750,000.  
16 The minimum time between the notification for the solicitation  
17 of proposals and the deadline for the submission of proposals  
18 by state universities shall be 60 days. The maximum time  
19 between the deadline for receiving proposals during a  
20 solicitation period and final determination by the corporation  
21 to approve or deny a request that is timely submitted in  
22 proper form shall be 60 days. However, by a majority vote of  
23 the board of directors, the deadline for approval or denial of  
24 a specific application may be extended up to an additional 60  
25 days for complex proposals that require additional time to  
26 properly evaluate.

27 (b) The corporation shall establish guidelines  
28 prescribing the criteria and format for the submission of  
29 proposed projects by state universities.

30 (2) Any state university, upon approval of its board  
31 of trustees, may submit a request to the State University

605-2023A-07

1 Research Commercialization Corporation for a grant to  
 2 facilitate the commercialization of a university research  
 3 product or the commercialization of a patent held by a state  
 4 agency under a cooperative agreement between the state agency  
 5 and the university.

6 (3) When evaluating the projects submitted for funding  
 7 support through the State University Research  
 8 Commercialization Program, the corporation shall consider the  
 9 following criteria:

10 (a) The potential return to the university which may  
 11 be reasonably assumed based on the business case presented in  
 12 support of the proposed project;

13 (b) The potential for the creation of high-wage jobs  
 14 resulting from the success of the proposed project;

15 (c) The potential of the proposed project to address  
 16 pressing needs of the residents of the state;

17 (d) The potential of the proposed project to enhance  
 18 the economic competitiveness of the state and the university;  
 19 and

20 (e) The technical, financial, organizational, and  
 21 marketing feasibility of the project and its business plan.

22  
 23 Each proposed project shall be evaluated on its individual  
 24 merits.

25 Section 5. Funding for the State University Research  
 26 Commercialization Program shall be as specified in the General  
 27 Appropriations Act. The funds shall be appropriated to the  
 28 Department of Education for the State University Research  
 29 Commercialization Funding Corporation to be used pursuant to  
 30 the provisions of ss. 288.9621-288.9624, Florida Statutes. The  
 31 Department of Education shall provide the funds to the

605-2023A-07

1 corporation upon receiving a copy of the signed agreement  
2 entered into by the corporation and the State Board of  
3 Administration pursuant to s. 288.9622(6), Florida Statutes.

4 Section 6. This act shall take effect July 1, 2007.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31