

Bill No. CS for SB 1762

Barcode 493268

CHAMBER ACTION

Senate

House

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The Committee on Governmental Operations (Oelrich) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Sections 288.9621, 288.9622, 288.9623, and 288.9624, Florida Statutes, are created to read:

288.9621 Short title.--Sections 288.9621-288.9624 may be cited as the "Florida Capital Formation Act."

288.9622 Findings and intent.--

(1) The Legislature finds and declares that there is need to increase the availability of seed capital and early stage venture equity capital for emerging companies in the state, including, without limitation, enterprises in life sciences, information technology, advanced manufacturing processes, aviation and aerospace, and homeland security and defense, as well as other strategic technologies.

(2) It is the intent of the Legislature that this act serve to mobilize private investment in a broad variety of

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1 venture capital partnerships in diversified industries and
 2 geographies; retain private-sector investment criteria focused
 3 on rate of return; use the services of highly qualified
 4 managers in the venture capital industry regardless of
 5 location; facilitate the organization of the Florida
 6 Opportunity Fund as a fund-of-funds investor in seed and early
 7 stage venture capital and angel funds; and precipitate capital
 8 investment and extensions of credit to and in the Florida
 9 Opportunity Fund.

10 (3) It is the intent of the Legislature to mobilize
 11 venture equity capital for investment in such a manner as to
 12 result in a significant potential to create new businesses and
 13 jobs in this state which are based on high growth potential
 14 technologies, products, or services and which will further
 15 diversify the economy of this state.

16 288.9623 Definitions.--As used in ss.

17 288.9621-288.9624, the term:

18 (1) "Board" means the board of directors of the
 19 Florida Opportunity Fund.

20 (2) "Fund" means the Florida Opportunity Fund.

21 288.9624 Florida Opportunity Fund; creation; duties.--

22 (1)(a) Enterprise Florida, Inc., shall facilitate the
 23 creation of the Florida Opportunity Fund, a private,
 24 not-for-profit corporation organized and operated under
 25 chapter 617. Enterprise Florida, Inc., shall be the fund's
 26 sole shareholder or member. The fund is not a public
 27 corporation or instrumentality of the state. The fund shall
 28 manage its business affairs and conduct business consistently
 29 with its organizational documents and the purposes set forth
 30 in this section. Notwithstanding the powers granted under
 31 chapter 617, the corporation may not amend, modify, or repeal

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1 a bylaw or article of incorporation without the express
2 written consent of Enterprise Florida, Inc.

3 (b) The vice chair of Enterprise Florida, Inc., shall
4 select from among its sitting board of directors a five-person
5 appointment committee. The appointment committee shall select
6 five initial members of a board of directors for the fund.

7 (c) The persons selected to the initial board of
8 directors by the appointment committee shall include persons
9 who have expertise in the area of the selection and
10 supervision of early stage investment managers or in the
11 fiduciary management of investment funds and other areas of
12 expertise as considered appropriate by the appointment
13 committee.

14 (d) After selection of the initial board of directors,
15 vacancies on the board shall be filled by vote of the board of
16 directors of Enterprise Florida, Inc., and board members shall
17 serve terms as provided in the fund's organizational
18 documents.

19 (e) Members of the board are subject to any
20 restrictions on conflicts of interest specified in the
21 organizational documents and may not have an interest in any
22 venture capital investment selected by the fund under ss.
23 288.9621-288.9624.

24 (f) Members of the board shall serve without
25 compensation, but members, the president of the board, and
26 other board employees may be reimbursed for all reasonable,
27 necessary, and actual expenses as determined and approved by
28 the board pursuant to s. 112.061.

29 (g) The fund shall have all powers granted under its
30 organizational documents and shall indemnify members to the
31 broadest extent permissible under the laws of this state.

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1 (2) Upon organization, the board shall conduct a
2 national solicitation for investment plan proposals from
3 qualified venture capital investment managers for the raising
4 and investing of capital by the Florida Opportunity Fund. Any
5 proposed investment plan must address the applicant's level of
6 experience, quality of management, investment philosophy and
7 process, provability of success in fundraising, prior
8 investment fund results, and plan for achieving the purposes
9 of this act. The board shall select only venture capital
10 investment managers that have demonstrated expertise in the
11 management of and investment in companies.

12 (3) The board is responsible for negotiating the terms
13 of a contract with the Florida Opportunity Fund investment
14 manager; executing the contract with the selected venture
15 capital investment fund manager on behalf of the Florida
16 Opportunity Fund; managing the business affairs of the Florida
17 Opportunity Fund, such as accounting, audit, insurance, and
18 related requirements; soliciting and negotiating the terms of,
19 contracting for, and receiving investment capital and loan
20 proceeds with the assistance of the investment manager;
21 receiving investment returns; paying investors and debtors;
22 and reinvesting the investment returns in the fund in order to
23 provide additional venture capital investments designed to
24 result in a significant potential to create new businesses and
25 jobs in this state and further diversify the economy of this
26 state.

27 (4) For the purpose of mobilizing investment in a
28 broad variety of Florida-based, new technology companies and
29 generating a return sufficient to continue reinvestment, the
30 fund shall:

31 (a) Invest directly only in seed and early stage

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1 venture capital funds that have experienced managers or
 2 management teams with demonstrated experience, expertise, and
 3 a successful history in the investment of venture capital
 4 funds, focusing on opportunities in this state. The fund may
 5 not make direct investments in individual businesses. While
 6 not precluded from investing in venture capital funds that
 7 have investments outside this state, the fund must require a
 8 venture capital fund to show a record of successful investment
 9 in this state, to be based in this state, or to have an office
 10 in this state staffed with a full-time, professional venture
 11 investment executive in order to be eligible for investment.

12 (b) Negotiate for investment capital or loan proceeds
 13 from private, institutional, or banking sources.

14 (c) Negotiate any and all terms and conditions for its
 15 investments.

16 (d) Invest only in funds that have raised capital from
 17 other sources so that the amount invested in an entity in this
 18 state is at least twice the amount invested by the fund.

19 (5) By December 1 of each year, the board shall issue
 20 an annual report concerning the activities conducted by the
 21 fund to the Governor, the President of the Senate, and the
 22 Speaker of the House of Representatives. The annual report, at
 23 a minimum, must include:

24 (a) An accounting of the amount of investments
 25 disbursed by the fund and the progress of the fund.

26 (b) A description of the benefits to this state
 27 resulting from the fund, including the number of businesses
 28 created, associated industries started, the number of jobs
 29 created, and the growth of related research projects.

30 (c) Independently audited financial statements,
 31 including statements that show receipts and expenditures

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1 during the preceding fiscal year for personnel,
2 administration, and operational costs of the fund.

3 Section 2. The nonrecurring sum of \$30 million is
4 appropriated from the General Revenue Fund to Enterprise
5 Florida, Inc., for the Florida Opportunity Fund for the
6 2007-2008 fiscal year. Of these funds, \$500,000 shall be for
7 the purpose of initiating activities necessary to implement
8 the fund's responsibilities under this act, and \$29.5 million
9 is provided for the purpose of making investments under s.
10 288.9624, Florida Statutes.

11 Section 3. This act shall take effect July 1, 2007.

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete everything before the enacting clause

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18 and insert:

19 A bill to be entitled
20 An act relating to venture capital funds;
21 creating s. 288.9621, F.S.; providing a short
22 title; creating s. 288.9622, F.S.; providing
23 legislative findings and intent; creating s.
24 288.9623, F.S.; providing definitions; creating
25 s. 288.9624, F.S.; requiring Enterprise
26 Florida, Inc., to facilitate creation of the
27 Florida Opportunity Fund; specifying criteria
28 of the fund; providing for appointment of an
29 appointment committee; providing for selection
30 of a board of directors of the fund by
31 Enterprise Florida, Inc.; specifying criteria;

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1 providing for terms and requirements of the
2 directors; providing purposes of the fund;
3 providing duties and responsibilities of the
4 fund; authorizing the fund to negotiate all
5 contract terms; providing for reimbursement for
6 travel and other direct expenses; providing for
7 powers of the fund; providing investment
8 requirements for the fund; requiring the board
9 of directors to issue an annual report on the
10 activities of the fund; providing report
11 requirements; providing an appropriation;
12 providing an effective date.

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