

Bill No. SB 2414

Barcode 314142

CHAMBER ACTION

Senate

House

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The Committee on Higher Education (Ring) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 288.956, Florida Statutes, is created to read:

288.956 Sure Ventures Commercialization Program.--

(1) The Sure Ventures Commercialization Program is established for the purpose of financing the commercialization of products and services developed from the research and development conducted at public universities in this state. The purpose of the program is to enhance the economy of this state by:

(a) Converting products from research performed at public universities into viable consumer products; and

(b) Precipitating the formation of new Florida companies to further develop and sell those products in the commercial marketplace.

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1 (2) The Sure Ventures Commercialization Program is
2 designed so that a public university can apply for funding
3 from Sure Ventures Commercialization, Inc., in order to
4 commercially develop products and services resulting from
5 research at the university. Funding from the Sure Ventures
6 Commercialization Trust Fund may be used for a variety of
7 premarketing activities, including, but not limited to,
8 securing patents, establishing start-up companies, developing
9 license agreements, attracting private investment, and
10 supporting other activities that are necessary to establish
11 commercially viable ventures for the marketing and sale of
12 products. Funds may not be used for research or development.

13 Section 2. Section 288.9561, Florida Statutes, is
14 created to read:

15 288.9561 Sure Ventures Commercialization, Inc.--

16 (1) CREATION.--There is created Sure Ventures
17 Commercialization, Inc., a not-for-profit corporation, which
18 shall be registered, incorporated, organized, and operated
19 under chapter 617 with Enterprise Florida, Inc., as its sole
20 member.

21 (a) The corporation is not a unit of state government
22 or a political subdivision of the state. However, the
23 Legislature declares that the corporation is subject to s. 24,
24 Art. I of the State Constitution and chapter 119, relating to
25 public records, and the provisions of chapter 286 relating to
26 public meetings and records. Furthermore, all officers,
27 directors, and employees of the corporation must comply with
28 the code of ethics for public officers and employees under
29 part III of chapter 112.

30 (b) The corporation shall adopt suitable articles of
31 incorporation and bylaws and must establish at least one

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1 corporate office in this state and appoint a registered agent.

2 (c) The corporation may hire or contract for all
3 personnel necessary to properly execute the powers and duties
4 bestowed upon it within the funds appropriated to implement
5 ss. 288.956-288.9566. Using funds appropriated to implement
6 this section, the corporation may not expend more than \$1
7 million each year for personnel and necessary administrative
8 expenditures, including, but not limited to, travel and per
9 diem, legal fees, consultant's fees, rents and utilities, and
10 audit fees.

11 (d) Subject to appropriations, Enterprise Florida,
12 Inc., shall contract to provide administrative support to the
13 corporation as requested by the corporation. If the
14 corporation is dissolved, Enterprise Florida, Inc., becomes
15 the corporation's successor in interest and assumes all
16 rights, duties, and obligations of the corporation under any
17 contract to which the corporation is then a party and under
18 law.

19 (2) PURPOSE.--The corporation shall be organized to
20 administer a commercialization grants program as defined in
21 this act with funding from the Sure Ventures Commercialization
22 Trust Fund, and the corporation may receive, hold, invest,
23 administer, and disburse funds appropriated by the
24 Legislature.

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

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

31 (b) As a candidate to be selected to the board of

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1 directors, an individual must have prior experience with and
2 demonstrated expertise and competence in early stage business
3 investment, corporate management, the fiduciary management of
4 investment funds, or the commercialization of research
5 products. The individual must also demonstrate competence with
6 respect to the administration and management of a publicly
7 listed company, or experience and competence in public
8 accounting, auditing, and fiduciary responsibilities. A board
9 member may not have an interest in any grant proposal
10 submitted to the corporation.

11 (c) Each member of the board of directors shall be
12 appointed to a term of 4 years, except that for the initial
13 appointments the Governor, the President of the Senate, and
14 the Speaker of the House of Representatives each shall appoint
15 one member for a term of 1 year, one member for a term of 2
16 years, and one member for a term of 4 years in order to
17 achieve staggered terms among the members of the board. A
18 member is not eligible for reappointment to the board, except
19 that a member appointed to an initial term of 1 year or 2
20 years may be reappointed for an additional term of 4 years,
21 and a person appointed to fill a vacancy having 2 years or
22 less remaining on the term may be reappointed for an
23 additional term of 4 years. The Governor, the President of the
24 Senate, and the Speaker of the House of Representatives shall
25 make their initial appointments to the board by October 1,
26 2007.

27 (d) The Governor, the President of the Senate, or the
28 Speaker of the House of Representatives, respectively, shall
29 fill a vacancy on the board of directors, according to who
30 appointed the member whose vacancy is to be filled or whose
31 term has expired. A vacancy that occurs before the scheduled

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1 expiration of the term of the member shall be filled for the
2 remainder of the unexpired term. A board member whose term has
3 expired shall continue to serve until his or her replacement
4 has been appointed.

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

9 (f)1. A person appointed to the board of directors
10 must agree to refrain from having any direct interest in any
11 contract, franchise, privilege, or other benefit arising from
12 a university project receiving financing from the board during
13 the term of his or her appointment and for 2 years after the
14 termination of the appointment.

15 2. If a person accepts a direct interest in any
16 contract, franchise, privilege, or other benefit granted by
17 the institution, an affiliate, or a corporation benefited by
18 Sure Ventures Commercialization Grant proceeds within 2 years
19 after the termination of his or her service on the board, the
20 person commits a misdemeanor of the first degree, punishable
21 as provided in s. 775.083 or s. 775.084.

22 (g) Members of the board of directors shall receive no
23 compensation for their services but are entitled to receive
24 reimbursement for necessary expenses, including travel and per
25 diem expenses, incurred in the performance of their duties.

26 (h) Each member of the board of directors is
27 accountable for the proper performance of his or her duties of
28 office, and each member owes a fiduciary duty to the people of
29 the state to ensure that funds provided in furtherance of this
30 section are disbursed and used as prescribed by law and
31 contract and in the best interests of the state.

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1 (i) The Governor, the President of the Senate, or the
2 Speaker of the House of Representatives, according to which
3 officer appointed the member, may remove a member for
4 malfeasance, misfeasance, neglect of duty, incompetence,
5 permanent inability to perform official duties, unexcused
6 absence from three consecutive meetings of the board, arrest
7 or indictment for a crime that is a felony or a misdemeanor
8 involving theft or a crime of dishonesty, or pleading nolo
9 contendere to, or being found guilty of, any crime.

10 (4) ORGANIZATION; MEETINGS.--

11 (a)1. The board of directors shall annually elect a
12 chairperson and a vice chairperson from among the board's
13 members. The members may, by a vote of five of the nine board
14 members, remove a member from the position of chairperson or
15 vice chairperson before the expiration of his or her term as
16 chairperson or vice chairperson. His or her successor shall be
17 elected to serve for the balance of the removed chairperson's
18 or vice chairperson's term.

19 2. The chairperson shall ensure that records are kept
20 of the proceedings of the board of directors and is the
21 custodian of all books, documents, and papers filed with the
22 board; the minutes of meetings of the board; and the official
23 seal of the corporation.

24 (b)1. The board of directors shall meet upon the call
25 of the chairperson or at the request of a majority of the
26 members, but not less than twice each calendar year if a
27 university request for funding under this section is pending.

28 2. A majority of the voting members of the board of
29 directors constitutes a quorum. Except as otherwise provided
30 in this section, the board may take official action by a
31 majority vote of the members present at any meeting at which a

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1 quorum is present. Members may not vote by proxy.

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

5 (5) POWERS AND DUTIES.--The corporation shall be
6 organized to receive, hold, invest, administer, and disburse
7 funds appropriated by the Legislature in support of ss.
8 288.956-288.9566 and to disburse any income generated from the
9 investment of these funds consistent with the purpose and
10 provisions of this section. In addition to the powers and
11 duties prescribed in chapter 617 and the articles and bylaws
12 adopted under that chapter, the corporation:

13 (a) May make and enter into contracts and assume any
14 other functions that are necessary to carry out the provisions
15 of this section.

16 (b) May enter into leases and hold notes, mortgages,
17 guarantees, or security agreements to secure the performance
18 of obligations of the university under a contract.

19 (c) May perform all acts and things necessary or
20 convenient to carry out the powers expressly granted in ss.
21 288.956-288.9566 and a contract entered into between the
22 corporation and a university.

23 (d) May make expenditures from funds provided by this
24 state, including any necessary administrative expenditures
25 consistent with its powers.

26 (e) Shall indemnify, and purchase and maintain
27 insurance on behalf of, directors, officers, and employees of
28 the corporation against any personal liability or
29 accountability.

30 (f) Shall disburse funds under this section and a
31 contract entered into between the corporation and a

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1 university.

2 (g) Shall receive and review reports and financial
3 documentation provided by a university to ensure compliance
4 with this section and the contract.

5 (h) Shall prepare an annual report as prescribed in
6 subsection (8).

7 (i) May accept gifts, grants, donations, in-kind
8 services, or other goods and services for carrying out its
9 purposes.

10 (6) INVESTMENT OF FUNDS.--The corporation may enter
11 into an agreement with the State Board of Administration under
12 which funds received by the corporation which are not
13 disbursed to a university or invested must be invested by the
14 State Board of Administration on behalf of the corporation.
15 Funds shall be invested in suitable instruments authorized
16 under s. 215.47 and specified in investment guidelines
17 established and agreed to by the State Board of Administration
18 and the corporation.

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

20 (a) The corporation shall negotiate and execute
21 contracts with universities governing the terms of grants
22 provided under ss. 288.956-288.9566. Grants must be approved
23 by a two-thirds vote of the board of directors when a quorum
24 is present at a duly noticed meeting.

25 (b) Each contract, at a minimum, must contain
26 provisions:

27 1. Specifying the procedures and schedules that govern
28 the disbursement of funds under this section and specifying
29 the conditions or deliverables that the university must
30 satisfy before the release of each disbursement.

31 2. Requiring the university to expend 95 percent of

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1 grant proceeds for described uses in the approved grant
2 application and not otherwise reduce grant proceeds with
3 facilities charges or fees by the university.

4 3. Requiring the university to submit data to the
5 corporation concerning the activities and performance of
6 projects funded under this section and to provide to the
7 corporation an annual accounting of the expenditure of funds
8 disbursed under this section by August 1 of each year until 1
9 year elapses from the university's final disbursement of all
10 grant funds received from the Sure Ventures Commercialization
11 Program.

12 (8) ANNUAL REPORT.--By December 1 of each year, the
13 corporation shall prepare a report of the activities and
14 outcomes under ss. 288.956-288.9566 for the preceding fiscal
15 year and submit the report to the Governor, the President of
16 the Senate, and the Speaker of the House of Representatives.
17 The report, at a minimum, must include:

18 (a) An accounting of the amount of grants awarded and
19 disbursed during the preceding fiscal year by project and
20 university.

21 (b) Project level summaries of the information
22 reported by grant recipients in paragraph (7)(b).

23 (c) A description of the benefits to this state
24 resulting from the grant program, including the number of
25 businesses created, associated industries started, and the
26 growth of related research projects at the university.

27 (d) An independent audit of the corporation's
28 financial statements, which should include a statement of
29 operations that reports receipts and expenditures during the
30 preceding fiscal year for personnel, administration, and
31 operational costs of the corporation.

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1 (e) A description of those projects funded by the
 2 grant program in which two or more universities are working
 3 cooperatively together to avoid duplicating the activities,
 4 programs, and functions of the cooperating universities and to
 5 leverage the expertise offered by other universities.

6 (9) LIABILITY.--

7 (a) The appropriation or disbursement of funds under
 8 this section does not constitute a debt, liability, or
 9 obligation of the state, any political subdivision thereof, or
 10 the corporation, or a pledge of the faith and credit of the
 11 state or of any political subdivision.

12 (b) The appropriation or disbursement of funds under
 13 this section does not subject the state, any political
 14 subdivision, or the corporation to liability related to the
 15 research activities, commercialization activities, and
 16 research products that receive funding under this section.

17 (10) DEBT.--The corporation may not incur debt. This
 18 prohibition includes long-term leases, promissory notes,
 19 loans, lease-purchase agreements, certificates of
 20 participation, the sale of bonds or revenue bonds, or the
 21 award or commitment to award grants in excess of the
 22 unencumbered cash balance in the Sure Ventures
 23 Commercialization Trust Fund.

24 Section 3. Section 288.9562, Florida Statutes, is
 25 created to read:

26 288.9562 Sure Ventures Commercialization Grant
 27 Program.--The Sure Ventures Commercialization Grant Program is
 28 established to provide early stage capital funding from the
 29 Sure Ventures Commercialization Trust Fund in support of the
 30 commercialization of university research products. Grants from
 31 the Sure Ventures Commercialization Trust Fund shall be

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1 disbursed under the following categories:

2 (1) Phase One grants, which may not exceed \$50,000 per
3 project, may be used to assist with early market research,
4 independent evaluation, consultation, and other initial
5 activities that may be required to develop an initial business
6 model for a university research product having the potential
7 for commercialization.

8 (2) Phase Two grants, which may not exceed \$100,000
9 per project, may be used to match private investment in a
10 university research commercialization proposal. The university
11 proposal must have been successfully evaluated and developed
12 into a level of readiness contemplated for projects that have
13 received Phase One grants. Phase Two grants shall be used to
14 develop a complete business plan for the commercialization of
15 a university research product. For a Phase Two grant proposal,
16 the university must document the availability of \$1 in private
17 support for each \$1 in state funding requested.

18 (3) Phase Three grants, which may not exceed \$250,000
19 per project, may be used to match private investment relating
20 to the implementation of a completed business plan for a
21 university research product. For a Phase Three grant proposal,
22 the university must document the availability of \$1 in private
23 support for each \$1 in state funding requested.

24 Section 4. Section 288.9563, Florida Statutes, is
25 created to read:

26 288.9563 Sure Ventures Commercialization grants;
27 application and approval procedures.--

28 (1) A university, or any two or more universities,
29 upon approval by an authorized officer of the university, may
30 submit a request to Sure Ventures Commercialization, Inc., for
31 a grant to facilitate the commercialization of a university

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1 research product or the commercialization of a patent held by
2 a university.

3 (2) Subject to the availability of trust funds, the
4 corporation shall periodically solicit specific proposals from
5 universities for grants to be funded by the corporation.

6 (a)1. The corporation shall meet at least once every 6
7 months for the purpose of evaluating the grant proposals and
8 for awarding grants if the uncommitted balance in the Sure
9 Ventures Commercialization Trust Fund exceeds \$750,000.

10 2. The minimum time between the date when the notice
11 for the solicitation for proposals is issued and the date when
12 the finished proposal is received by the corporation may not
13 be less than 60 days. The corporation must approve or deny a
14 completed proposal not more than 60 days after receiving the
15 proposal.

16 3. The board of directors, by a majority vote, may
17 increase the time allotted to approve or deny the submitted
18 proposals by an additional 60 days when complex proposals
19 require additional time for proper evaluation.

20 (b)1. The board shall establish guidelines prescribing
21 the criteria and format for proposed projects submitted by
22 universities.

23 2. A university need not receive prior stage grants to
24 be eligible for phase two or phase three grants.

25 (3) When evaluating the projects submitted for funding
26 support through Sure Ventures Commercialization, Inc., the
27 board must consider the following criteria:

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

31 (b) The potential for the creation of high-wage jobs

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1 resulting from the success of the proposed project;

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

4 (d) The potential of the proposed project to
5 "spin-off" other related business enterprises;

6 (e) The potential of the proposed project to enhance
7 the economic competitiveness of the state and the university;

8 and

9 (f) The technical, financial, organizational, and
10 marketing feasibility of the project and its business plan.

11 (4) The proposed project must be evaluated on its
12 individual merits.

13 Section 5. The nonrecurring sum of \$1 million is
14 appropriated from the General Revenue Fund to Sure Ventures
15 Commercialization, Inc., for the purpose of creating and
16 organizing the corporation, implementing a grant program as
17 defined in this act, and carrying out the administration of
18 administering the Sure Ventures Commercialization Trust Fund
19 during the 2007-2008 fiscal year.

20 Section 6. The nonrecurring sum of \$10 million is
21 appropriated from the General Revenue Fund to the Sure
22 Ventures Commercialization Trust Fund for the purpose of
23 implementing the provisions of this act during the 2007-2008
24 fiscal year.

25 Section 7. This act shall take effect July 1, 2007.

26

27

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

29 And the title is amended as follows:

30 Delete everything before the enacting clause

31

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1 universities for the commercialization of
2 research projects; creating s. 288.9563, F.S.;
3 providing for grant application and approval
4 procedures; providing appropriations; providing
5 an effective date.

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