

Bill No. CS for SB 2414

Barcode 513732

CHAMBER ACTION

Senate

House

1
2
3
4
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

Comm: RCS
03/29/2007 04:26 PM

.
. .
. .
. .
. .
. .

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

288.956 Sure Ventures Commercialization Program.--

(1) The Sure Ventures Commercialization Program is established in the Office of Tourism, Trade, and Economic Development 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

Bill No. CS for SB 2414

Barcode 513732

1 commercial marketplace.

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

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

16 288.9561 Sure Ventures Commercialization, Inc.--

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

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

31 (b) The corporation shall adopt suitable articles of

Bill No. CS for SB 2414

Barcode 513732

1 incorporation and bylaws and must establish at least one
 2 corporate office in this state and appoint a registered agent.
 3 Notwithstanding the powers granted under chapter 617, the
 4 corporation may not adopt, amend, modify, or repeal a bylaw or
 5 article of incorporation without the express written consent
 6 of Enterprise Florida, Inc.

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

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

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

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

Bill No. CS for SB 2414

Barcode 513732

1 (a) The board of directors shall consist of nine
2 voting members, of whom the Governor shall appoint three, the
3 President of the Senate shall appoint three, and the Speaker
4 of the House of Representatives shall appoint three.

5 (b) As a candidate to be selected to the board of
6 directors, an individual must have prior experience with and
7 demonstrated expertise and competence in early stage business
8 investment, corporate management, the fiduciary management of
9 investment funds, or the commercialization of research
10 products. The individual must also demonstrate competence with
11 respect to the administration and management of a publicly
12 listed company, or experience and competence in public
13 accounting, auditing, and fiduciary responsibilities. A board
14 member may not have an interest in any grant proposal
15 submitted to the corporation.

16 (c) Each member of the board of directors shall be
17 appointed to a term of 4 years, except that for the initial
18 appointments the Governor, the President of the Senate, and
19 the Speaker of the House of Representatives each shall appoint
20 one member for a term of 1 year, one member for a term of 2
21 years, and one member for a term of 4 years in order to
22 achieve staggered terms among the members of the board. A
23 member is not eligible for reappointment to the board, except
24 that a member appointed to an initial term of 1 year or 2
25 years may be reappointed for an additional term of 4 years,
26 and a person appointed to fill a vacancy having 2 years or
27 less remaining on the term may be reappointed for an
28 additional term of 4 years. The Governor, the President of the
29 Senate, and the Speaker of the House of Representatives shall
30 make their initial appointments to the board by October 1,
31 2007.

Bill No. CS for SB 2414

Barcode 513732

1 (d) The Governor, the President of the Senate, or the
2 Speaker of the House of Representatives, respectively, shall
3 fill a vacancy on the board of directors, according to who
4 appointed the member whose vacancy is to be filled or whose
5 term has expired. A vacancy that occurs before the scheduled
6 expiration of the term of the member shall be filled for the
7 remainder of the unexpired term. A board member whose term has
8 expired shall continue to serve until his or her replacement
9 has been appointed.

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

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

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

27 (g) Members of the board of directors shall receive no
28 compensation for their services, but are entitled to receive
29 reimbursement for travel and per diem expenses incurred in the
30 performance of their duties as provided in s. 112.061.

31 (h) Each member of the board of directors is

Bill No. CS for SB 2414

Barcode 513732

1 accountable for the proper performance of his or her duties of
 2 office, and each member owes a fiduciary duty to the people of
 3 the state to ensure that funds provided in furtherance of this
 4 section are disbursed and used as prescribed by law and
 5 contract and in the best interests of the state.

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

15 (4) ORGANIZATION; MEETINGS.--

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

24 2. The chairperson shall ensure that records are kept
 25 of the proceedings of the board of directors and is the
 26 custodian of all books, documents, and papers filed with the
 27 board; the minutes of meetings of the board; and the official
 28 seal of the corporation.

29 (b)1. The board of directors shall meet upon the call
 30 of the chairperson or at the request of a majority of the
 31 members, but not less than twice each calendar year if a

Bill No. CS for SB 2414

Barcode 513732

1 university request for funding under this section is pending.

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

7 3. A member of the board may participate in a meeting
8 of the board by telephone or videoconference through which
9 each member may hear every other member, if the meeting and
10 any call-in number is duly noticed and the meeting is held at
11 a place certain that is accessible to the public.

12 (5) POWERS AND DUTIES.--The corporation shall be
13 organized to receive, hold, invest, administer, and disburse
14 funds appropriated by the Legislature in support of ss.
15 288.956-288.9566 and to disburse any income generated from the
16 investment of these funds consistent with the purpose and
17 provisions of this section. Notwithstanding the powers granted
18 under chapter 617, the corporation may not increase or
19 decrease the number of directors on the board; borrow funds;
20 issue notes, bonds, or other obligations; or secure any
21 obligation by mortgage or pledge of the corporation's
22 property, franchise, or income. The corporation:

23 (a) May perform all acts and things necessary or
24 convenient to carry out the powers expressly granted in ss.
25 288.956-288.9566.

26 (b) Shall make expenditures from funds provided by
27 this state consistent with the powers of the corporation.

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

Bill No. CS for SB 2414

Barcode 513732

1 (d) Shall disburse funds under this section and a
2 contract entered into between the corporation and a
3 university.

4 (e) Shall receive and review reports and financial
5 documentation provided by a university to ensure compliance
6 with this section and the contract.

7 (f) Shall prepare an annual report as prescribed in
8 subsection (8).

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

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

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

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

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

30 2. Requiring the university to expend 95 percent of
31 grant proceeds for described uses in the approved grant

Bill No. CS for SB 2414

Barcode 513732

1 application and not otherwise reduce grant proceeds with
2 facilities charges or fees by the university.

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

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

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

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

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

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

31 (e) A description of those projects funded by the

Bill No. CS for SB 2414

Barcode 513732

1 grant program in which two or more universities are working
2 cooperatively together to avoid duplicating the activities,
3 programs, and functions of the cooperating universities and to
4 leverage the expertise offered by other universities.

5 (9) LIABILITY.--

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

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

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

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

25 288.9562 Sure Ventures Commercialization Grant
26 Program.--The Sure Ventures Commercialization Grant Program is
27 established to provide early stage capital funding from the
28 Sure Ventures Commercialization Trust Fund in support of the
29 commercialization of university research products. Grants from
30 the Sure Ventures Commercialization Trust Fund shall be
31 disbursed under the following categories:

Bill No. CS for SB 2414

Barcode 513732

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

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

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

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

25 288.9563 Sure Ventures Commercialization grants;
 26 application and approval procedures.--

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

1 a university.

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

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

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

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

19 (b)1. The board shall establish guidelines to
20 implement the criteria established in this section and to
21 establish the 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

Bill No. CS for SB 2414

Barcode 513732

1 resulting from the success of the proposed project;

2 (c) The potential of the proposed project to address a
3 strategic need of the state as set forth in the statewide
4 strategic plan for economic development prepared by Enterprise
5 Florida, Inc.;

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

8 (e) The potential of the proposed project to enhance
9 the economic competitiveness of the state and the university;
10 and

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

13 (4) The proposed project must be evaluated on its
14 individual merits.

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

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

Bill No. CS for SB 2414

Barcode 513732

1 and insert:

2 A bill to be entitled

3 An act relating to commercialization of

4 university research; creating s. 288.956, F.S.;

5 providing legislative intent for the Sure

6 Ventures Commercialization Program; creating s.

7 288.9561, F.S.; creating Sure Ventures

8 Commercialization, Inc., a not-for-profit

9 corporation in the Office of Tourism, Trade,

10 and Economic Development; requiring Enterprise

11 Florida, Inc., to provide administrative

12 support to the corporation and be its successor

13 in interest; providing for its administration

14 by a board; providing for appointment of board

15 members; providing for terms; providing for

16 service without compensation; providing for

17 reimbursement for travel and per diem expenses;

18 providing criteria for membership; providing

19 for powers and duties of the corporation;

20 providing for hiring employees; providing for

21 meetings of the corporation; authorizing the

22 corporation to invest funds through the State

23 Board of Administration; providing for

24 contracts with state universities; requiring

25 the corporation to prepare and deliver an

26 annual report to the Governor and the

27 Legislature by a specified date; detailing the

28 content of the report; providing for exclusion

29 of liability of state entities; creating s.

30 288.9562, F.S.; creating the Sure Ventures

31 Commercialization Grant Program; providing for

Bill No. CS for SB 2414

Barcode 513732

1 the types of grants that may be made to state
2 universities for the commercialization of
3 research projects; creating s. 288.9563, F.S.;
4 providing for grant application and approval
5 procedures; providing appropriations; providing
6 an effective date.

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