

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Operations Committee

BILL: CS/CS/SB 2414

INTRODUCER: Governmental Operations Committee, Higher Education Committee and Senator Ring

SUBJECT: Sure Ventures Commercialization Program

DATE: March 29, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Fav/CS
2.	Rhea	Wilson	GO	Fav/CS
3.			HI	
4.			TA	
5.				
6.				

I. Summary:

This bill creates the Sure Ventures Commercialization Program to finance the commercialization of products and services developed from the research and development conducted at Florida public universities. The bill creates a not-for-profit corporation, Sure Ventures Commercialization, Inc., to negotiate and execute contracts with universities for three types of commercialization grants—for early market research, to match private investment in a university commercialization proposal, and to match private investment relating to the implementation of a completed business plan for a university research project. The grants must be awarded according to criteria established in the bill.

The bill provides for membership of the board of the corporation and establishes the powers and duties of the board. The board must prepare and deliver an annual report to the Governor and the Legislature by a specified date.

The bill appropriates \$1 million in nonrecurring funds from the General Revenue Fund to Sure Ventures Commercialization, Inc., for the 2007-2008 fiscal year for the purpose of creating and organizing the Sure Ventures Commercialization Trust Fund, and implementing the grant program. The bill also appropriates the nonrecurring sum of \$10 million from the General Revenue Fund to the Sure Ventures Commercialization Trust Fund to implement the provisions of the bill during the 2007-2008 fiscal year.

This bill creates sections 288.956, 288.9561, 288.9562, and 288.9563 of the Florida Statutes.

II. Present Situation:

The Venture Capital Industry¹

“Venture capital” is money provided by professionals who invest alongside management in young, rapidly growing companies that have the potential to develop into significant economic contributors. Venture capital is an important source of equity for startup companies.²

Venture capital investments typically have several characteristics, including an investment in a start-up or expansion-oriented company that has a higher level of risk than is typically associated with traditional bank lending activities; equity participation in the business by the venture capitalist; long-term investments with a 5- to 10-year time horizon; and an established mechanism for the payout to the venture capitalist at the end of that time period.

Venture capitalists generally:

- Finance new and rapidly growing companies;
- Purchase equity securities;
- Assist in the development of new products or services;
- Add value to the company through active participation;
- Take higher risks with the expectation of higher rewards; and
- Have a long-term orientation.³

Venture capitalists actively work with the company’s management by contributing their experience and business savvy gained from helping other companies with similar growth challenges. A venture capitalist may invest before there is a real product or company organized, known as “seed investing,” or may provide capital to a company in its first or second stages of development known as “early stage investing.” Venture capitalists mitigate their risks by developing a portfolio of young companies into a single venture fund.

Over the past decade, a number of states have adopted programs targeting the formal venture capital industry. Programs fall into five basic categories :

- Direct investment by state agencies to individual businesses. This type of program may be problematic, because it is difficult to find state agency staff with appropriate expertise.
- Investment by state agencies or pension funds into privately managed funds that have extensive geographical limitations (such as enterprise zone location requirements).
- Investment by state agencies or pension funds into a portfolio of privately managed funds. Investments are made in several private partnerships along with other investors. This model is effective at diversifying risk and helping focus a variety of experienced investors on legitimate capital needs of businesses.
- Private investment spurred by offering state tax credits for qualifying investments. Programs include direct tax credits for investment in qualified businesses and direct tax credits for investment in qualified venture capital funds.

¹ The primary source for information in this section is the National Venture Capital Association website, available at <http://www.nvca.org/def.html>. Last visited March 18, 2007.

² *Ibid.*

³ *Ibid.*

- Private investment spurred by offering contingent state tax credits used as a source of value for guaranty of investment. The tax credits are contingent because they are not claimed unless the venture capital investment fails to meet a guaranteed rate of return.

Venture Capital in Florida

Enterprise Florida, Inc. (EFI), reports that in Florida, total venture capital spending was more than \$555 million for 114 deals in 2003 and 2004, and that 27 venture capital firms have headquarters in Florida.

EFI also reports that since the late 1990's, venture capital investment in Florida has fallen sharply both in absolute dollar terms and as a share of the U.S. total. Despite being the fourth-most populous state, Florida ranked 13th in the U.S. in terms of venture capital investment in 2004. In 2004, Florida accounted for only \$300 million, or 1.42 percent of the total venture capital funding in the U.S.

To date, Florida has promoted the investment of state funds in venture capital through two programs: the Cypress Equity Fund and the Certified Capital Company Act (CAPCO).

The Cypress Equity Fund

In 1995, the Enterprise Florida Capital Partnership, Inc., created the Cypress Equity Fund as part of a strategy to help improve Florida businesses' access to venture capital. The Cypress Equity Fund's purpose is to facilitate initial venture capital investments by Florida private financial institutions and institutional investors, and provide a means to encourage national venture capital managers to consider investment opportunities in Florida. This program invests both public and private funds into privately managed venture capital funds.

The Cypress Equity Fund is designed as a "fund of funds" to invest in national private venture capital funds that, in turn, would invest in companies with high growth potential. However, investments may be made in venture capital funds located anywhere in the country and therefore are not required to target in-state companies.

The Cypress Equity Fund began with a total of \$35.5 million in commitments: \$20.5 million from five private financial institutions, and \$15 million from the Florida State Board of Administration. The Cypress Equity Fund Management Corporation, an entity established by the Capital Development Board, is responsible for overall management of the fund. The corporation, in turn, contracts with a private equity manager to invest fund assets with national venture capital firms.

In a 1998 report on the Cypress Equity Fund, the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) concluded that the fund has not contributed to achieving the goal of improving Florida businesses' access to venture capital because its investments were not targeted to in-state companies.⁴

⁴ "Review of The Enterprise Florida, Inc. Capital Development Board's Cypress Equity Fund," Report No. 98-33. Available at <http://www.oppaga.state.fl.us/monitor/reports/pdf/9832rpt.pdf>

As of December 31, 2006, the Cypress Equity Fund portfolio is valued at \$10.3 million. Since the program's inception, distributions and realized gains to investors have totaled \$49.5 million, and the net compound internal rate of return is 22.5 percent.⁵

CAPCO

The 1998 Florida Legislature enacted the Certified Capital Company Act.⁶ This program encourages private investment in venture capital by providing direct tax credits for investment in qualified businesses. The stated purpose of this act is to stimulate a substantial increase in venture capital investments in Florida by providing an incentive for insurance companies to invest in state-certified capital companies (CAPCOs) which, in turn, will invest in new or expanding businesses. Eligible insurance companies are granted insurance premium tax credits in amounts equal to investments in CAPCOs. The increase in investment capital is intended to contribute to employment growth, create high-paying jobs, and expand or diversify Florida's economy.

A 2005 review of the CAPCO program by the Governor's Office of Tourism, Trade and Economic Development (OTTED) indicated that \$3 million was invested in 12 new investee companies, ranging from a business that specializes in transportation of construction materials, to child-care centers, to pool and spa installation.⁷ Another \$1.8 million was invested in existing companies. As of December 31, 2005, a total of \$153.4 million has been made available to the 59 investee companies, which have created 1,028 jobs.

While as many as nine states have created CAPCOs, this type of program is increasingly viewed as the more "problematic" of the Venture Capital Funds (VCF) programs, in terms of:

"...its high cost, poor design and target inefficiency. Unlike any other VCF program, the CAPCO program provides a 100% premium tax credit to insurance company investors. In effect, the government underwrites the entire investment risk."⁸

Other Models for Public Investment in Economic Development

Florida statutes include a variety of state subsidies, tax credits, and tax exemptions targeted for economic development. Most are distributed or administered by OTTED or the Department of Revenue (DOR). However, in some cases the Legislature has established an alternative mechanism for specific purposes. Recent examples include the Innovation Incentive Program, Centers of Excellence, and Scripps Funding Corporation.

⁵ Letter from Abbott Capital to Enterprise Florida, Inc., dated Feb. 15, 2007. On file with the Commerce Committee.

⁶ Chapter 98-257, L.O.F., codified at s. 288.99, F.S.

⁷ "Certified Capital Company Act" (CAPCO) Annual Report, January 1-December 30, 2005. Prepared by OTTED. Copy on file with the Commerce Committee.

⁸ Daniel Sandler, Professor at the Faculty of Law, The University of Western Ontario, London; senior research fellow of the Taxation Law and Policy Research Institute, Melbourne; and associated with Minden Gross Grafstein & Greenstein LLP, Toronto. See Daniel Sandler, *Venture Capital and Tax Incentives: A Comparative Study of Canada and the United States* (Toronto: Canadian Tax Foundation, 2004) ("Sandler VC Study").

Innovation Incentives Program

Chapter 2006-55, L.O.F., created the Innovation Incentive Program.⁹ The purpose of the program is to provide resources for significant economic development projects, including the location or expansion of research and development entities and innovation businesses in Florida. The law appropriated \$200 million for the program for FY 2006-2007. These funds were placed in reserve by the Executive Office of the Governor. Unexpended funds for fiscal year 2006-2007 are subject to annual appropriation.

Section 288.1089, F.S., requires Enterprise Florida, Inc. (EFI), to evaluate applications for innovation incentive funds and to recommend eligible businesses to OTTED. Next, OTTED must certify the applicants as qualified businesses, and then recommend qualified businesses to the Governor for approval. The Governor is required to consult with the Legislature and receive approval prior to releasing innovation incentive funds to qualified businesses.

Two recent recipients of funding under this program are the Burnham Institute (Burnham) for Medical Research and the Torrey Pines (Torrey Pines) Institute for Molecular Studies.¹⁰ Burnham in August 2006 announced plans to open a research facility in Orlando, and has received \$155 million in state innovation incentive funds.¹¹ Torrey Pines in September 2006 announced plans to expand its research operations to the city of Port St. Lucie, and has received \$32 million in state innovation incentive funds.¹²

Centers of Excellence

Chapter 2006-58, L.O.F., created the Centers of Excellence Program, which is designed to foster and promote the research required to develop commercially-promising, advanced, and innovative science and technology and to transfer those discoveries to commercial sectors.¹³ The law established the Florida Technology, Research, and Scholarship Board within the Board of Governors of the State University System to recommend to the Board of Governors methods for implementing and administering the Centers of Excellence Program. The Board of Governors was authorized to select the Centers and disburse the \$30 million appropriated for this purpose.

In November 2006, the Board of Governors disbursed the entire amount to five universities to advance various research projects: Florida Atlantic University, Florida State University, the University of Central Florida, the University of Florida (which received two separate grants), and the University of South Florida.

Scripps Florida Funding Corporation

During Special Session E in 2003, the Legislature provided for the creation of the Scripps Florida Funding Corporation (corporation), which is responsible for contracting with The Scripps Research Institute (TSRI) to establish a state-of-the-art biomedical research institute and campus

⁹ Section 288.1089, F.S.

¹⁰ "Florida Has Implemented Promising Biotechnology Initiatives, But Faces Challenges," Report No. 06-71, by the Florida Office of Program Policy Analysis & Government Accountability. Published November 2006. Available at <http://www.oppaga.state.fl.us/reports>.

¹¹ Ibid.

¹² Ibid.

¹³ Section 1004.226, F.S.

in Florida.¹⁴ The funding for the contract is provided by \$310 million of the \$543.5 million in federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003.

OTTED was the initial recipient of the \$310 million appropriation. OTTED disbursed the funds to the corporation pursuant to a funding agreement. The purpose of the corporation was to receive a lump-sum payment of \$310 million guaranteeing that a funding source will be available for periodic disbursements to TSRI's Florida operation over a seven-year period. Undisbursed funds held by the funding corporation have been invested by the State Board of Administration. The law stipulated that undisbursed funds revert back to the General Revenue Fund only if the contract between the funding corporation and TSRI is terminated. To date, scheduled annual disbursements have been made to TSRI, pursuant to their contract with the corporation.

These three programs have the potential to improve the state universities' role in technology transfer, a process through which an entity that develops a new technology, but does not have the wherewithal or desire to bring it to market, transfers that raw technology to another entity that has the ability to commercialize it. A 2001 report by the Senate Commerce and Economic Opportunities Committee¹⁵ noted that university-to-industry technology transfers can be a key factor in building a high-skill, high-wage state economy. However, the report concluded that, by 2002, Florida universities, in general, did not appear to be performing as many technology transfers as their peer universities.

The report identified the importance of university-to-business transfers, reviewed the statutory and regulatory framework for technology-transfer activities, and identified the impediments to successful university-to-industry collaboration. Commercialization resources that a university needs to fuel the technology-transfer process include pre-venture "seed" funding, sound business guidance, and administrative support.

III. Effect of Proposed Changes:

This bill creates the Sure Ventures Commercialization Program in the Office of Tourism, Trade and Economic Development to provide financing for the commercialization of products and services developed from the research and development conducted at Florida public universities. The purpose of the program is to enhance Florida's economy by converting products from research performed at public universities to viable consumer products and by precipitating the formation of new Florida companies to develop and sell products from university research.

The Sure Ventures Commercialization Program is designed so that a public university¹⁶ can apply for funding from Sure Ventures Commercialization, Inc., which is created in Section 2 of the bill, in order to commercially develop products and services resulting from research at the university. Funding from the Sure Ventures Commercialization Trust Fund may not be used for research or development. The funds could be used for a variety of premarketing activities, including, but not limited to, securing patents, establishing start-up companies, developing

¹⁴ Section 288.955, F.S.

¹⁵ "Technology Transfer and Commercialization." Senate Interim Project Report 2002-123. November 2001.

¹⁶ It should be noted that there are multiple institutes created in current law that are created within or assigned to universities and, as such, would appear to be included within the term "public university."

license agreements, attracting private investment, and supporting other activities that are necessary to establish commercially viable ventures for the marketing and sale of products.

The bill creates Sure Ventures Commercialization, Inc., a not-for-profit corporation, which must be registered, incorporated, organized, and operated under ch. 617, F.S., with Enterprise Florida, Inc., as the corporation's sole member or stockholder. The corporation is not a unit of state government or a political subdivision of the state. All officers, directors, and employees of the corporation must comply with the code of ethics for public officers and employees under part III of ch. 112, F.S. The corporation:

- Must adopt suitable articles of incorporation and bylaws;
- Must establish at least one corporate office in Florida and appoint a registered agent;
- May hire or contract for all personnel necessary to properly execute its powers and duties within the funds appropriated to implement the bill;
- May not expend more than \$1 million each year for personnel and necessary administrative expenditures, including, but not limited to, travel and per diem, legal fees, consultant's fees, rents and utilities, and audit fees;
- Must be organized to administer a commercialization grant program with funding from the Sure Ventures Commercialization Trust Fund; and
- May receive, hold, invest, administer, and disburse funds appropriated by the Legislature.

Subject to appropriations, Enterprise Florida, Inc., must provide administrative support to the corporation as requested by the corporation. If the corporation is dissolved, Enterprise Florida, Inc., will become the corporation's successor in interest and assumes all rights, duties, and obligations of the corporation under any contract to which the corporation is then a party and under law.

The bill requires the corporation to be governed by a 9-member board of directors and provides a method of appointment, requirements for board members and duties of the board. The Governor will appoint three members, the President of the Senate will appoint three, and the Speaker of the House of Representatives will appoint three. If a board member is to be removed for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, unexcused absence from three consecutive meetings of the board, arrest or indictment for a crime that is a felony or a misdemeanor involving theft or a crime of dishonesty, or pleading nolo contendere to, or being found guilty of, any crime, the individual who made the appointment will remove the individual from the board.

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

Each member of the board of directors must be appointed to a term of 4 years, except that the initial appointments will be for staggered terms as provided in the bill. A member is not eligible for reappointment to the board, except that a member appointed to an initial term of 2 years or

less or a person appointed to fill a vacancy having 2 years or less remaining on the term may be reappointed for an additional term of 4 years. The Governor, the President of the Senate, and the Speaker of the House of Representatives must make their initial appointments to the board by October 1, 2007.

The Governor, the President of the Senate, or the Speaker of the House of Representatives, respectively, shall fill a vacancy on the board of directors, in the same manner as the original appointment of the member whose vacancy is to be filled or whose term has expired.

Each member of the board of directors who is not otherwise required to file financial disclosure under s. 8, Art. II of the State Constitution or s. 112.3144, F.S., must file disclosure of financial interests under s. 112.3145, F.S. A person appointed to the board of directors must agree to refrain from having any direct interest in any contract, franchise, privilege, or other benefit arising from a university project receiving financing from the board during the term of his or her appointment and for 2 years after the termination of the appointment. A person who accepts such a direct interest in any contract, franchise, privilege, or other benefit granted by the institution, an affiliate, or corporation benefited by Sure Ventures Commercialization grant proceeds within 2 years after the termination of his or her service on the board commits a misdemeanor of the first degree, punishable by up to one year in prison or a fine of up to \$1,000.

Members of the board of directors will receive no compensation for their services but are entitled to receive reimbursement for travel and per diem expenses incurred in the performance of their duties pursuant to s. 112.061, F.S. Each member of the board of directors is accountable for the proper performance of his or her duties of office, and each member owes a fiduciary duty to the people of the state to ensure that funds are disbursed and used as prescribed by law and contract and in the best interests of the state.

The board of directors must annually elect a chairperson and a vice chairperson from among the board's members. The members may, by a vote of five of the nine board members, remove a member from the position of chairperson or vice chairperson before the expiration of his or her term as chairperson or vice chairperson. His or her successor shall be elected to serve for the balance of the removed chairperson's or vice chairperson's term. The chairperson must ensure that records are kept of the proceedings of the board of directors and is the custodian of all books, documents, and papers filed with the board; the minutes of meetings of the board; and the official seal of the corporation.

The board of directors shall meet upon the call of the chairperson or at the request of a majority of the members, but not less than twice each calendar year if a university request for funding is pending. A majority of the voting members of the board of directors constitutes a quorum. Except as otherwise provided in the bill, the board may take official action by a majority vote of the members present at any meeting at which a quorum is present. Members may not vote by proxy. A member of the board may participate in a meeting of the board by telephone or videoconference through which each member may hear every other member so long as the call-in number is duly noticed and the meeting is held at a place certain that is accessible to the public.

As a corporation, the entity has all powers that corporations have under ch. 617, F.S., in order to perform the acts necessary or convenient to carry out the powers expressly granted in ss. 288.956-288.9566, except as limited by the bill. Notwithstanding those general corporate powers, the corporation is prohibited from increasing or decreasing the number of directors on the board; from borrowing funds; from issuing notes, bonds or other obligations; from securing any obligation by mortgage or pledge of the corporation's property, franchise or income. Further, the corporation:

- Must make expenditures from state funds consistent with its powers.
- Must indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the corporation against any personal liability or accountability.
- Must disburse funds under this section and a contract entered into between the corporation and a university.
- Must receive and review reports and financial documentation provided by a university to ensure compliance with the provisions of this bill and the contract.
- Must prepare an annual report as prescribed in the bill.

The corporation must enter into an agreement with the State Board of Administration under which funds received by the corporation which are not disbursed to a university or invested must be invested by the State Board of Administration on behalf of the corporation. Funds must be invested in suitable instruments authorized under s. 215.47, F.S., and specified in investment guidelines established and agreed to by the State Board of Administration and the corporation.

The corporation must negotiate and execute contracts with universities governing the terms of grants established in the bill. The corporation may not execute the contract unless the grant is approved by a two-thirds vote of the board of directors when a quorum is present at a duly noticed meeting. Each contract, at a minimum, must contain provisions:

- Specifying the procedures and schedules that govern the disbursement of funds and specifying the conditions or deliverables that the university must satisfy before the release of each disbursement.
- Requiring a university to expend 95 percent of grant proceeds for described uses in the grant application and not otherwise reduce grant proceeds with facilities charges or fees by the university.
- Requiring the university to submit data to the corporation concerning the activities and performance of projects funded and to provide to the corporation an annual accounting of the expenditure of funds disbursed by August 1 of each year until one year elapses from the final disbursement of all grant funds.

By December 1 of each year, the corporation must prepare a report of the activities and outcomes for the preceding fiscal year and submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report, at a minimum, must include:

- An accounting of the amount of grants awarded and disbursed during the preceding fiscal year by project and university.
- Project level summaries of the information reported by grant recipients in paragraph (7)(b).

- A description of the benefits to Florida resulting from the grant program, including the number of businesses created, associated industries started, and the growth of related research projects at the university.
- An independent audit of the corporation's financial statements which must include a statement of operations that reports receipts and expenditures during the preceding fiscal year for personnel, administration, and operational costs of the corporation.
- A description of those projects funded by the grant program in which two or more universities are working cooperatively together to avoid duplicating the activities, programs, and functions of the cooperating universities and to leverage the expertise offered by other universities.

The bill provides that appropriation or disbursement of funds under this program does not constitute a debt, liability, or obligation of the state, any political subdivision thereof, or the corporation, or a pledge of the faith and credit of the state or of any political subdivision. Such appropriation or disbursement of funds does not subject the state, any political subdivision, or the corporation to liability related to the research activities and research products that receive funding under this bill.

The corporation may not incur debt. This prohibition includes long-term leases, promissory notes, loans, lease-purchase agreements, certificates of participation, the sale of bonds or revenue bonds, or the award, or commitment to award, grants in excess of the unencumbered cash balance in the Sure Ventures Commercialization Trust Fund.

The bill creates the Sure Ventures Commercialization Grant Program to provide early stage capital funding from the Sure Ventures Commercialization Trust Fund, which is created in a separate bill, in support of the commercialization of university research products. Grants from the Sure Ventures Commercialization Trust Fund must be disbursed under the following categories:

- Phase One grants, which may not exceed \$50,000 per project, may be used to assist with early market research, independent evaluation, consultation, and other initial activities that may be required to develop an initial business model for a university research product having the potential for commercialization.
- Phase Two grants, which may not exceed \$100,000 per project, may be used to match private investment in a university research commercialization proposal. The university proposal must have been successfully evaluated and developed into a level of readiness contemplated for projects that have received Phase One grants. Phase Two grants must be used to develop a complete business plan for the commercialization of a university research product. For a Phase Two grant proposal, the university must document the availability of \$1 in private support for each \$1 in state funding requested.
- Phase Three grants, which may not exceed \$250,000 per project, may be used to match private investment relating to the implementation of a completed business plan for a university research product. For a Phase Three grant proposal, the university must document the availability of \$1 in private support for each \$1 in state funding requested.

The bill establishes the following application and approval procedures for the Sure Ventures Commercialization grants:

- A university, or any two or more universities, upon approval by an authorized officer of the university, may submit a request to Sure Ventures Commercialization, Inc., for a grant to facilitate the commercialization of a university research product or the commercialization of a patent held by a university.
- Subject to the availability of trust funds, the corporation must periodically solicit specific proposals from universities for grants approved by the corporation.
 - The corporation must meet at least once every 6 months for the purpose of evaluating the grant proposals and for awarding grants if the uncommitted balance in the Sure Ventures Commercialization Trust Fund exceeds \$750,000.
 - The minimum time between the date when the notice for the solicitation for proposals is issued and the date when the finished proposal is received by the corporation may not be less than 60 days. The corporation must approve or deny a completed proposal not more than 60 days after receiving the proposal.
 - The board of directors, by a majority vote, may increase the time allotted to approve or deny the submitted proposals by an additional 60 days when complex proposals require additional time for proper evaluation.
 - The board must establish guidelines to implement the criteria established in the section and to establish a format for proposed projects submitted by universities.
 - A university need not receive prior stage grants to be eligible for phase two or phase three grants.
- When evaluating the projects submitted for funding support through Sure Ventures Commercialization, Inc., the board must consider the following criteria:
 - The potential return to the university which may be reasonably assumed based on the business case presented in support of the proposed project;
 - The potential for the creation of high-wage jobs resulting from the success of the proposed project;
 - The potential of the proposed project to address a strategic need of the state in the statewide strategic plan for economic development prepared by Enterprise Florida, Inc;
 - The potential of the proposed project to "spin-off" other related business enterprises;
 - The potential of the proposed project to enhance the economic competitiveness of the state and the university; and
 - The technical, financial, organizational, and marketing feasibility of the project and its business plan.
- The proposed project must be evaluated on its individual merits.

The bill appropriates \$1 million in nonrecurring funds from the General Revenue Fund to Sure Ventures Commercialization, Inc., for the 2007-2008 fiscal year for the purpose of creating and organizing the Sure Ventures Commercialization Trust Fund, and implementing the grant program. The bill also appropriates the nonrecurring sum of \$10 million from the General Revenue Fund to the Sure Ventures Commercialization Trust Fund to implement the provisions of the bill during the 2007-2008 fiscal year.

The bill will take effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

On page 3, lines 11-16, the bill provides that the Legislature declare that the Sure Ventures Commercialization, Inc., is subject to s. 24, Article I of the State Constitution, ch. 119, F.S., and chapter 286 relating to public meetings and records. It would appear, however, that the corporation would be required to comply with these requirements under *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group, Inc.*,¹⁷ regardless of this express declaration.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill is designed to promote the commercialization of university research products (which appears to include the institutes created within or at those universities) for the purpose of enhancing the state economy and the state's public universities.

C. Government Sector Impact:

The bill appropriates \$1 million in nonrecurring funds from the General Revenue Fund to Sure Ventures Commercialization, Inc., for the 2007-2008 fiscal year for the purpose of creating and organizing the Sure Ventures Commercialization Trust Fund, and implementing the grant program. The bill also appropriates the nonrecurring sum of \$10 million from the General Revenue Fund to the Sure Ventures Commercialization Trust Fund to implement the provisions of the bill during the 2007-2008 fiscal year.

The corporation may provide grants for university commercialization projects within three phases:

- Phase One grants, not to exceed \$50,000 per project
- Phase Two grants, not to exceed \$100,000 per project, and
- Phase Three grants, not to exceed \$250,000 per project.

¹⁷ 509 So.2d 1029 (Fla. 1992).

Members of the board of directors are not authorized to receive compensation under the bill; however, they are authorized to receive compensation for travel and per diem expenses as provided in s. 112.061, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
