

By Senator Ring

32-929-07

1 A bill to be entitled
2 An act relating to commercialization of
3 university research; creating s. 288.956, F.S.;
4 providing legislative intent for the Sure
5 Ventures Commercialization Program; creating s.
6 288.9561, F.S.; creating Sure Ventures
7 Commercialization, Inc., a not-for-profit
8 corporation; requiring Enterprise Florida,
9 Inc., to provide administrative support to the
10 corporation and be its successor in interest;
11 providing for its administration by a board;
12 providing for appointment of board members;
13 providing for terms; providing for service
14 without compensation; providing for
15 reimbursement for per diem, travel, and other
16 direct expenses; providing criteria for
17 membership; providing for powers and duties of
18 the board; providing for hiring employees;
19 providing for meetings of the board; requiring
20 the board to invest funds through the State
21 Board of Administration; providing for
22 contracts with state universities; requiring
23 the board to prepare and deliver an annual
24 report to the Governor and the Legislature by a
25 specified date; detailing the content of the
26 report; providing for exclusion of liability by
27 the corporation; creating s. 288.9562, F.S.;
28 creating the Sure Ventures Commercialization
29 Grant Program; providing for the types of
30 grants that may be made to state universities
31 for the commercialization of research projects;

1 creating s. 288.9563, F.S.; providing for grant
2 application and approval procedures; providing
3 appropriations; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

9 288.956 Sure Ventures Commercialization Program.--

10 (1) The Sure Ventures Commercialization Program is
11 established for the purpose of financing the commercialization
12 of products and services developed from the research and
13 development conducted at public universities in this state.
14 The purpose of the program is to enhance the economy of this
15 state by converting products from research performed at public
16 universities to viable consumer products.

17 (2) The Sure Ventures Commercialization Program is
18 designed so that a public university can apply for funding
19 from Sure Ventures Commercialization, Inc., in order to
20 commercially develop products and services resulting from
21 research at the university. Funding from the Sure Ventures
22 Commercialization Trust Fund may be used for a variety of
23 premarketing activities, including, but not limited to,
24 securing patents, establishing start-up companies, developing
25 license agreements, attracting private investment, and
26 supporting other activities that are necessary to establish
27 commercially viable ventures for the marketing and sale of
28 products. Funds may not be used for research or development.

29 Section 2. Section 288.9561, Florida Statutes, is
30 created to read:

31 288.9561 Sure Ventures Commercialization, Inc.--

1 (1) CREATION.--There is created Sure Ventures
2 Commercialization, Inc., a not-for-profit corporation, which
3 shall be registered, incorporated, organized, and operated
4 under chapter 617.

5 (a) The corporation is not a unit of state government
6 or a political subdivision of the state. However, the
7 Legislature declares that the corporation is subject to s. 24,
8 Art. I of the State Constitution and chapter 119, relating to
9 public records, and the provisions of chapter 286 relating to
10 public meetings and records. Furthermore, all officers,
11 directors, and employees of the corporation must comply with
12 the code of ethics for public officers and employees under
13 part III of chapter 112.

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

16 (c) The corporation may hire or contract for all
17 personnel necessary to properly execute the powers and duties
18 bestowed upon it within the funds appropriated to implement
19 ss. 288.956-288.9566. Using funds appropriated to implement
20 this section, the corporation may not expend more than \$1
21 million each year for personnel and necessary administrative
22 expenditures, including, but not limited to, travel and per
23 diem, legal fees, consultant's fees, rents and utilities, and
24 audit fees.

25 (d) Subject to appropriations, Enterprise Florida,
26 Inc., shall provide administrative support to the corporation
27 as requested by the corporation. If the corporation is
28 dissolved, Enterprise Florida, Inc., becomes the corporation's
29 successor in interest and assumes all rights, duties, and
30 obligations of the corporation under any contract to which the
31 corporation is then a party and under law.

1 (2) PURPOSE.--The corporation shall be organized to
2 receive, hold, invest, administer, and disburse funds
3 appropriated by the Legislature.

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

6 (a) The board of directors shall consist of nine
7 voting members, of whom the Governor shall appoint three, the
8 President of the Senate shall appoint three, and the Speaker
9 of the House of Representatives shall appoint three.

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

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

1 less remaining on the term may be reappointed for an
2 additional term of 4 years. The Governor, the President of the
3 Senate, and the Speaker of the House of Representatives shall
4 make their initial appointments to the board by October 1,
5 2007.

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

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

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

25 2. If a person accepts a direct interest in any
26 contract, franchise, privilege, or other benefit granted by
27 the institution or affiliate within 2 years after the
28 termination of his or her service on the board, the person
29 commits a misdemeanor of the first degree, punishable as
30 provided in s. 775.083 or s. 775.084.

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

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

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

20 (4) ORGANIZATION; MEETINGS.--

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

29 2. The chairperson shall ensure that records are kept
30 of the proceedings of the board of directors and is the
31 custodian of all books, documents, and papers filed with the

1 board; the minutes of meetings of the board; and the official
2 seal of the corporation.

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

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

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

15 (5) POWERS AND DUTIES.--The corporation shall be
16 organized to receive, hold, invest, administer, and disburse
17 funds appropriated by the Legislature in support of ss.
18 288.956-288.9566 and to disburse any income generated from the
19 investment of these funds consistent with the purpose and
20 provisions of this section. In addition to the powers and
21 duties prescribed in chapter 617 and the articles and bylaws
22 adopted under that chapter, the corporation:

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

26 (b) May enter into leases and contracts for the
27 purchase of real property and hold notes, mortgages,
28 guarantees, or security agreements to secure the performance
29 of obligations of the university under a contract.

30 (c) May perform all acts and things necessary or
31 convenient to carry out the powers expressly granted in ss.

1 288.956-288.9566 and a contract entered into between the
2 corporation and a university.

3 (d) May make expenditures from funds provided by this
4 state, including any necessary administrative expenditures
5 consistent with its powers.

6 (e) Shall indemnify, and purchase and maintain
7 insurance on behalf of, directors, officers, and employees of
8 the corporation against any personal liability or
9 accountability.

10 (f) Shall disburse funds under this section and a
11 contract entered into between the corporation and a
12 university.

13 (g) Shall receive and review reports and financial
14 documentation provided by a university to ensure compliance
15 with this section and the contract.

16 (h) Shall prepare an annual report as prescribed in
17 subsection (8).

18 (i) May accept gifts, grants, donations, in-kind
19 services, or other goods and services for carrying out its
20 purposes.

21 (6) INVESTMENT OF FUNDS.--The corporation must enter
22 into an agreement with the State Board of Administration under
23 which funds received by the corporation which are not
24 disbursed to a university or invested must be invested by the
25 State Board of Administration on behalf of the corporation.
26 Funds shall be invested in suitable instruments authorized
27 under s. 215.47 and specified in investment guidelines
28 established and agreed to by the State Board of Administration
29 and the corporation.

30 (7) CONTRACTS FOR THE AWARD OF GRANTS.--
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1 (a) The corporation shall negotiate and execute
2 contracts with universities governing the terms of grants
3 provided under ss. 288.956-288.9566. The corporation may not
4 execute the contract unless the contract is approved by the
5 affirmative vote of at least six of the nine members of the
6 board of directors.

7 (b) Each contract, at a minimum, must contain
8 provisions:

9 1. Specifying the procedures and schedules that govern
10 the disbursement of funds under this section and specifying
11 the conditions or deliverables that the university must
12 satisfy before the release of each disbursement.

13 2. Requiring the university to submit to the
14 corporation a business plan in a form and manner prescribed by
15 the corporation.

16 3. Requiring the university to submit data to the
17 corporation concerning the activities and performance of
18 projects funded under this section and to provide to the
19 corporation an annual accounting of the expenditure of funds
20 disbursed under this section by August 1, 2008, and annually
21 thereafter.

22 4. Requiring grant recipients to negotiate repayment
23 to the Sure Ventures Commercialization Trust Fund the amount
24 of the grant awarded to a project when the project generates
25 sufficient revenues to sustain a profitable operation.

26 (8) ANNUAL REPORT.--By December 1 of each year, the
27 corporation shall prepare a report of the activities and
28 outcomes under ss. 288.956-288.9566 for the preceding fiscal
29 year and submit the report to the Governor, the President of
30 the Senate, and the Speaker of the House of Representatives.
31 The report, at a minimum, must include:

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

4 (b) Information concerning the amount and nature of
5 economic activity in this state generated through university
6 research projects receiving funding under ss.
7 288.956-288.9566.

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

10 (d) A description of the benefits to this state
11 resulting from the grant program, including the number of
12 businesses created, associated industries started, and the
13 growth of related research projects at the university.

14 (e) An independent audit of the corporation's receipts
15 and expenditures during the preceding fiscal year for
16 personnel, administration, and operational costs of the
17 corporation.

18 (f) A description of those projects funded by the
19 grant program in which two or more universities are working
20 cooperatively together to avoid duplicating the activities,
21 programs, and functions of the cooperating universities and to
22 leverage the expertise offered by other universities.

23 (9) LIABILITY.--

24 (a) The appropriation or disbursement of funds under
25 this section does not constitute a debt, liability, or
26 obligation of the state, any political subdivision thereof, or
27 the corporation, or a pledge of the faith and credit of the
28 state or of any political subdivision.

29 (b) The appropriation or disbursement of funds under
30 this section does not subject the state, any political
31 subdivision, or the corporation to liability related to the

1 research activities and research products that receive funding
2 under this section.

3 (10) DEBT.--The corporation may not incur debt. This
4 prohibition includes long-term leases, promissory notes,
5 loans, lease-purchase agreements, certificates of
6 participation, the sale of bonds or revenue bonds, or the
7 award or commitment to award grants in excess of the
8 unencumbered cash balance in the Sure Ventures
9 Commercialization Trust Fund.

10 Section 3. Section 288.9562, Florida Statutes, is
11 created to read:

12 288.9562 Sure Ventures Commercialization Grant
13 Program.--The Sure Ventures Commercialization Grant Program is
14 established to provide early stage capital funding from the
15 Sure Ventures Commercialization Trust Fund in support of the
16 commercialization of university research products. Grants from
17 the Sure Ventures Commercialization Trust Fund shall be
18 disbursed under the following categories:

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

25 (2) Phase Two grants, which may not exceed \$100,000
26 per project, may be used to match private investment in a
27 university research commercialization proposal. The university
28 proposal must have been successfully evaluated and developed
29 into a level of readiness contemplated for projects that have
30 received Phase One grants. Phase Two grants shall be used to
31 develop a complete business plan for the commercialization of

1 a university research product. For a Phase Two grant proposal,
2 the university must document the availability of \$1 in private
3 support for each \$1 in state funding requested.

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

10 Section 4. Section 288.9563, Florida Statutes, is
11 created to read:

12 288.9563 Sure Ventures Commercialization grants;
13 application and approval procedures.--

14 (1) A university, or any two or more universities,
15 upon approval of each university's board of trustees, may
16 submit a request to Sure Ventures Commercialization, Inc., for
17 a grant to facilitate the commercialization of a university
18 research product or the commercialization of a patent held by
19 a university.

20 (2) Subject to the availability of trust funds, the
21 corporation shall periodically solicit specific proposals from
22 universities for grants approved by the corporation.

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

27 2. The minimum time between the date when the notice
28 for the solicitation for proposals is issued and the date when
29 the finished proposal is received by the corporation may not
30 be less than 60 days. The corporation must approve or deny a
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1 completed proposal not more than 60 days after receiving the
2 proposal.

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

7 (b) The board shall establish guidelines prescribing
8 the criteria and format for proposed projects submitted by
9 universities.

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

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

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

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

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

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

24 and

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

27 (4) The proposed project must be evaluated on its
28 individual merits.

29 Section 5. The nonrecurring sum of \$1 million is
30 appropriated from the General Revenue Fund to Sure Ventures
31 Commercialization, Inc., for the purpose of creating and

1 administering the Sure Ventures Commercialization Trust Fund
2 as created by this act during the 2007-2008 fiscal year.

3 Section 6. The nonrecurring sum of \$10 million is
4 appropriated from the General Revenue Fund to the Sure
5 Ventures Commercialization Trust Fund for the purpose of
6 implementing the provisions of this act during the 2007-2008
7 fiscal year.

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

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SENATE SUMMARY

Creates Sure Ventures Commercialization, Inc. Provides for its administration by a board. Provides for appointment of board members. Provides for criteria for membership. Provides for powers and duties of the board. Requires the board to invest funds through the State Board of Administration. Provides for contracts with state universities. Requires the board to prepare and deliver an annual report to the Governor and the Legislature by a specified date. Details the content of the report. Provides for exclusion of liability by the corporation. Creates the Sure Ventures Commercialization Grant Program. Provides for the types of grants that may be granted to state universities for commercialization of research projects. Provides for the grant application and approval procedures. Provides for appropriations.