

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

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

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

10 288.956 Sure Ventures Commercialization Program.--

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

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

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

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

1 commercially viable ventures for the marketing and sale of
2 products. Funds may not be used for research or development.

3 Section 2. Section 288.9561, Florida Statutes, is
4 created to read:

5 288.9561 Sure Ventures Commercialization, Inc.--

6 (1) CREATION.--There is created Sure Ventures
7 Commercialization, Inc., a not-for-profit corporation, which
8 shall be registered, incorporated, organized, and operated
9 under chapter 617 with Enterprise Florida, Inc., as its sole
10 member.

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

20 (b) The corporation shall adopt suitable articles of
21 incorporation and bylaws and must establish at least one
22 corporate office in this state and appoint a registered agent.

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

1 (d) Subject to appropriations, Enterprise Florida,
2 Inc., shall contract to provide administrative support to the
3 corporation as requested by the corporation. If the
4 corporation is dissolved, Enterprise Florida, Inc., becomes
5 the corporation's successor in interest and assumes all
6 rights, duties, and obligations of the corporation under any
7 contract to which the corporation is then a party and under
8 law.

9 (2) PURPOSE.--The corporation shall be organized to
10 administer a commercialization grants program as defined in
11 this act with funding from the Sure Ventures Commercialization
12 Trust Fund, and the corporation may receive, hold, invest,
13 administer, and disburse funds appropriated by the
14 Legislature.

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

17 (a) The board of directors shall consist of nine
18 voting members, of whom the Governor shall appoint three, the
19 President of the Senate shall appoint three, and the Speaker
20 of the House of Representatives shall appoint three.

21 (b) As a candidate to be selected to the board of
22 directors, an individual must have prior experience with and
23 demonstrated expertise and competence in early stage business
24 investment, corporate management, the fiduciary management of
25 investment funds, or the commercialization of research
26 products. The individual must also demonstrate competence with
27 respect to the administration and management of a publicly
28 listed company, or experience and competence in public
29 accounting, auditing, and fiduciary responsibilities. A board
30 member may not have an interest in any grant proposal
31 submitted to the corporation.

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

17 (d) The Governor, the President of the Senate, or the
18 Speaker of the House of Representatives, respectively, shall
19 fill a vacancy on the board of directors, according to who
20 appointed the member whose vacancy is to be filled or whose
21 term has expired. A vacancy that occurs before the scheduled
22 expiration of the term of the member shall be filled for the
23 remainder of the unexpired term. A board member whose term has
24 expired shall continue to serve until his or her replacement
25 has been appointed.

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

30 (f)1. A person appointed to the board of directors
31 must agree to refrain from having any direct interest in any

1 contract, franchise, privilege, or other benefit arising from
2 a university project receiving financing from the board during
3 the term of his or her appointment and for 2 years after the
4 termination of the appointment.

5 2. If a person accepts a direct interest in any
6 contract, franchise, privilege, or other benefit granted by
7 the institution, an affiliate, or a corporation benefited by
8 Sure Ventures Commercialization Grant proceeds within 2 years
9 after the termination of his or her service on the board, the
10 person commits a misdemeanor of the first degree, punishable
11 as provided in s. 775.083 or s. 775.084.

12 (g) Members of the board of directors shall receive no
13 compensation for their services, but are entitled to receive
14 reimbursement for necessary expenses, including travel and per
15 diem expenses, incurred in the performance of their duties as
16 provided in s. 112.061.

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

23 (i) The Governor, the President of the Senate, or the
24 Speaker of the House of Representatives, according to which
25 officer appointed the member, may remove a member for
26 malfeasance, misfeasance, neglect of duty, incompetence,
27 permanent inability to perform official duties, unexcused
28 absence from three consecutive meetings of the board, arrest
29 or indictment for a crime that is a felony or a misdemeanor
30 involving theft or a crime of dishonesty, or pleading nolo
31 contendere to, or being found guilty of, any crime.

1 (4) ORGANIZATION; MEETINGS.--

2 (a)1. The board of directors shall annually elect a
3 chairperson and a vice chairperson from among the board's
4 members. The members may, by a vote of five of the nine board
5 members, remove a member from the position of chairperson or
6 vice chairperson before the expiration of his or her term as
7 chairperson or vice chairperson. His or her successor shall be
8 elected to serve for the balance of the removed chairperson's
9 or vice chairperson's term.

10 2. The chairperson shall ensure that records are kept
11 of the proceedings of the board of directors and is the
12 custodian of all books, documents, and papers filed with the
13 board; the minutes of meetings of the board; and the official
14 seal of the corporation.

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

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

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

27 (5) POWERS AND DUTIES.--The corporation shall be
28 organized to receive, hold, invest, administer, and disburse
29 funds appropriated by the Legislature in support of ss.
30 288.956-288.9566 and to disburse any income generated from the
31 investment of these funds consistent with the purpose and

1 provisions of this section. In addition to the powers and
2 duties prescribed in chapter 617 and the articles and bylaws
3 adopted under that chapter, the corporation:

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

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

10 (c) May perform all acts and things necessary or
11 convenient to carry out the powers expressly granted in ss.
12 288.956-288.9566 and a contract entered into between the
13 corporation and a university.

14 (d) May make expenditures from funds provided by this
15 state, including any necessary administrative expenditures
16 consistent with its powers.

17 (e) Shall indemnify, and purchase and maintain
18 insurance on behalf of, directors, officers, and employees of
19 the corporation against any personal liability or
20 accountability.

21 (f) Shall disburse funds under this section and a
22 contract entered into between the corporation and a
23 university.

24 (g) Shall receive and review reports and financial
25 documentation provided by a university to ensure compliance
26 with this section and the contract.

27 (h) Shall prepare an annual report as prescribed in
28 subsection (8).

29 (i) May accept gifts, grants, donations, in-kind
30 services, or other goods and services for carrying out its
31 purposes.

1 (6) INVESTMENT OF FUNDS.--The corporation may enter
2 into an agreement with the State Board of Administration under
3 which funds received by the corporation which are not
4 disbursed to a university or invested must be invested by the
5 State Board of Administration on behalf of the corporation.
6 Funds shall be invested in suitable instruments authorized
7 under s. 215.47 and specified in investment guidelines
8 established and agreed to by the State Board of Administration
9 and the corporation.

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

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

16 (b) Each contract, at a minimum, must contain
17 provisions:

18 1. Specifying the procedures and schedules that govern
19 the disbursement of funds under this section and specifying
20 the conditions or deliverables that the university must
21 satisfy before the release of each disbursement.

22 2. Requiring the university to expend 95 percent of
23 grant proceeds for described uses in the approved grant
24 application and not otherwise reduce grant proceeds with
25 facilities charges or fees by the university.

26 3. Requiring the university to submit data to the
27 corporation concerning the activities and performance of
28 projects funded under this section and to provide to the
29 corporation an annual accounting of the expenditure of funds
30 disbursed under this section by August 1 of each year until 1
31 year elapses from the university's final disbursement of all

1 grant funds received from the Sure Ventures Commercialization
2 Program.

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

9 (a) An accounting of the amount of grants awarded and
10 disbursed during the preceding fiscal year by project and
11 university.

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

14 (c) A description of the benefits to this state
15 resulting from the grant program, including the number of
16 businesses created, associated industries started, and the
17 growth of related research projects at the university.

18 (d) An independent audit of the corporation's
19 financial statements, which should include a statement of
20 operations that reports receipts and expenditures during the
21 preceding fiscal year for personnel, administration, and
22 operational costs of the corporation.

23 (e) A description of those projects funded by the
24 grant program in which two or more universities are working
25 cooperatively together to avoid duplicating the activities,
26 programs, and functions of the cooperating universities and to
27 leverage the expertise offered by other universities.

28 (9) LIABILITY.--

29 (a) The appropriation or disbursement of funds under
30 this section does not constitute a debt, liability, or
31 obligation of the state, any political subdivision thereof, or

1 the corporation, or a pledge of the faith and credit of the
2 state or of any political subdivision.

3 (b) The appropriation or disbursement of funds under
4 this section does not subject the state, any political
5 subdivision, or the corporation to liability related to the
6 research activities, commercialization activities, and
7 research products that receive funding under this section.

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

15 Section 3. Section 288.9562, Florida Statutes, is
16 created to read:

17 288.9562 Sure Ventures Commercialization Grant
18 Program.--The Sure Ventures Commercialization Grant Program is
19 established to provide early stage capital funding from the
20 Sure Ventures Commercialization Trust Fund in support of the
21 commercialization of university research products. Grants from
22 the Sure Ventures Commercialization Trust Fund shall be
23 disbursed under the following categories:

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

30 (2) Phase Two grants, which may not exceed \$100,000
31 per project, may be used to match private investment in a

1 university research commercialization proposal. The university
2 proposal must have been successfully evaluated and developed
3 into a level of readiness contemplated for projects that have
4 received Phase One grants. Phase Two grants shall be used to
5 develop a complete business plan for the commercialization of
6 a university research product. For a Phase Two grant proposal,
7 the university must document the availability of \$1 in private
8 support for each \$1 in state funding requested.

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

15 Section 4. Section 288.9563, Florida Statutes, is
16 created to read:

17 288.9563 Sure Ventures Commercialization grants;
18 application and approval procedures.--

19 (1) A university, or any two or more universities,
20 upon approval by an authorized officer of the university, may
21 submit a request to Sure Ventures Commercialization, Inc., for
22 a grant to facilitate the commercialization of a university
23 research product or the commercialization of a patent held by
24 a university.

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

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

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

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

11 (b)1. The board shall establish guidelines prescribing
12 the criteria and format for proposed projects submitted by
13 universities.

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

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

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

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

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

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

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

30 and

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

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

5 Section 5. The nonrecurring sum of \$1 million is
6 appropriated from the General Revenue Fund to Sure Ventures
7 Commercialization, Inc., for the purpose of creating and
8 organizing the corporation, implementing a grant program as
9 defined in this act, and carrying out the administration of
10 administering the Sure Ventures Commercialization Trust Fund
11 during the 2007-2008 fiscal year.

12 Section 6. The nonrecurring sum of \$10 million is
13 appropriated from the General Revenue Fund to the Sure
14 Ventures Commercialization Trust Fund for the purpose of
15 implementing the provisions of this act during the 2007-2008
16 fiscal year.

17 Section 7. This act shall take effect July 1, 2007.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2414
4 The committee substitute clarifies the purpose, organization,
5 and financial requirements of the Sure Ventures
6 Commercialization Program by:
7 Adding that a purpose of the program is precipitating the
8 formation of new Florida companies to develop and sell
9 products from university research;
10 Specifying that Enterprise Florida, Inc., is the corporation's
11 sole member;
12 Specifying that the corporation must be organized to
13 administer a commercialization grant program with funding from
14 the Sure Ventures Commercialization Trust Fund;
15 Requiring a two-thirds vote of the board of directors when a
16 quorum is present at a duly noticed meeting to approve grants;
17 Making travel reimbursement and per diem of board members
18 subject to s.112.061, F.S.;
19 Requiring a university to expend 95 percent of grant proceeds
20 as approved in the grant application;
21 Eliminating a provision that required grant recipients to
22 negotiate repayment to the corporation when an approved grant
23 resulted in sufficient revenues to sustain a profitable
24 operation;
25 Permitting an authorized officer of the university to submit
26 the grant proposal for approval; and
27 Stipulating that a university need not receive prior stage
28 grants in order to be eligible for phase two or phase three
29 grants.
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