

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: Commerce Committee

BILL: SB 2424

INTRODUCER: Senator Ring

SUBJECT: Institute for the Commercialization of Public Research Trust Fund

DATE: March 15, 2007

REVISED: 03/20/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Fav/ 1 amendment
2.			GO	
3.			TA	
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

SB 2424 creates the Institute for the Commercialization of Public Research Trust Fund, to be comprised of legislative appropriations, grants and donations, and investment earnings, for the purpose of funding the institute’s organization and operation expenses.

It is a companion bill to CS/SB 2420, which creates the SURE Venture Capital Act, a \$50 million tax credit program intended to promote investment in seed capital and early stage venture capital equity for emerging companies in Florida.

The trust fund will be terminated, unless re-created by the Legislature, on July 1, 2011, pursuant to s. 19(f), Art. III, of the State Constitution.

SB 2424 creates section 288.9629 of the Florida Statutes.

II. Present Situation:

Creation and Operation of Trust Funds

A trust fund consists of monies received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law.¹ Section 19(f), Art. III, of the State Constitution, governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.²

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency.³ Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for re-appropriation.⁴ Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act.⁵

State trust funds terminate no more than 4 years after the effective date of the act that created them, unless they are re-created by the Legislature with a three-fifths vote of the House and the Senate.

2007 Venture Capital Legislation

CS/SB 2420, the companion to SB 2424, creates the SURE Venture Capital Act, a \$50 million tax credit program intended to promote investment in seed capital and early stage venture capital equity for emerging companies in Florida.

The tax credits may be applied against the sales and use tax, the corporate income tax, the premium insurance tax, and the wet marine and transportation insurance tax.

The bill creates a three-tiered structure to manage and implement the program:

¹ Section 215.32(2)(b)1., F.S.

² Section 215.3207, F.S.

³ Section 17.61, F.S.

⁴ Section 216.301(1)(b), F.S.

⁵ Section 216.301(1)(c), F.S.

- The SURE Trust and its board of directors receive and manage the tax credits, and are responsible for the overall direction of the program.
- The Sure Venture Capital Fund and its board of directors are responsible for hiring the investment fund allocation manager, making the actual investments, and attracting other co-investors.
- The Institute for Commercialization of Public Research, based at a south Florida public university, selects companies that will be eligible to receive the SURE investments, and helps mentor those companies. The institute also will receive \$1 million in non-recurring general revenue in FY 2007-2008 to fund its initial implementation and administrative costs. The institute will receive \$900,000 in non-recurring general revenue in FY 2007-2008 to fund activities necessary to implement its responsibilities.

The Institute for Commercialization of Public Research

According to CS/SB 2420, the institute will be operated by a public university in south Florida and established in a major metropolitan area of this state having extensive commercial air service. The actual site will be selected by the Enterprise Florida, Inc. (EFI) board of directors after review of proposals submitted by interested public universities in the region.

The purpose of the institute is to assist in the commercialization of products developed by the research and development activities of publicly supported universities and colleges, research institutes, and other publicly supported organizations within the state.

To be eligible for assistance, the company or organization attempting to commercialize its product must be accepted by the institute before receiving the institute's assistance. The institute shall receive recommendations from any publicly supported organization for any company that is commercializing the research, technology, or patents from a qualifying publicly supported organization. The next step is that the institute shall review the business plans and technology information of each such recommended company.

For each company that is accepted, the institute shall provide mentoring, develop marketing information, and use its resources to attract capital investment into the company.

Among the institute's other duties are:

- Maintaining a centralized location to showcase companies and their technologies and products;
- Developing an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- Routinely communicating with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- Facilitating meetings between prospective investors and eligible organizations in the institute;
- Hiring full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community;
- Operating within an allocated annual budget of \$1 million or less; and

- Developing cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.

The institute is prohibited from developing or accruing any ownership, royalty, or other such rights over, or interest in, companies or products in the institute and shall maintain the secrecy of proprietary information. It also may not charge for services rendered to state universities and affiliated organizations, community colleges, or state agencies.

III. Effect of Proposed Changes:

Section 1 creates in s. 288.9629, F.S., the Institute for Commercialization of Public Research Trust Fund as a repository of funds for the institute's organizational and operational expenses.

The funds credited to the trust fund shall be legislative appropriations, grants and donations received by the institute, and investment earnings.

Notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance remaining in the trust fund at the end of a fiscal year shall remain there and be used to carry out the trust fund's purposes.

The trust fund shall be terminated, in accordance with s. 19(f)(2), Art. III, of the State Constitution, on July 1, 2012, unless the Legislature terminates it sooner. Before its scheduled termination, the Legislature shall review the trust fund as provided in s. 215.3206(1) and (2), F.S.

Section 2 provides an effective date of July 1, 2007, contingent on passage of CS/SB 2420 or similar legislation in the same legislative session.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

SB 2424 creates the Institute for the Commercialization of Public Research Trust Fund, and appears to comply with s. 19(f), Art. III, of the State Constitution, relating to the creation and termination of trust funds. The bill must pass by a three-fifths vote of the membership of each chamber to become law, pursuant to s. 19(f), Art. III, of the State Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

To the extent that funds within the trust fund are used to mentor, train, and finance emerging businesses seeking venture capital, SB 2424 will provide a benefit to the private sector.

C. Government Sector Impact:

In FY 2007-2008, non-recurring state general revenue in the amount of \$900,000 will be made available to the institute for start-up and administrative expenses.

The Office of the Chief Financial Officer may incur indeterminate, but likely minimal expenses in maintaining the trust fund.

VI. Technical Deficiencies:

This bill has two technical deficiencies. On page 2, line 2, the trust fund termination date needs to be changed from 2012 to 2011 to accurately reflect state constitutional requirements that trust funds automatically terminate four years after their creation unless reviewed by the Legislature prior to the termination date. Also, the number of SB 2424's related bill, CS/SB 2420, needs to be inserted in the contingent effective date on page 2, line 6.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 601572: Changes the trust fund termination date from 2012 to 2011 and adds the number of the related Senate bill, CS/SB 2420, to the contingent effective date.

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