

1 A bill to be entitled
 2 An act relating to venture capital funds; creating s.
 3 288.9621, F.S.; providing a short title; creating s.
 4 288.9622, F.S.; providing legislative findings and intent;
 5 creating s. 288.9623, F.S.; providing definitions;
 6 creating s. 288.9624, F.S.; requiring Enterprise Florida,
 7 Inc., to facilitate creation of the Florida Opportunity
 8 Fund; specifying criteria of the fund; providing for
 9 appointment of an appointment committee; providing for
 10 selection of a board of directors of the fund by
 11 Enterprise Florida, Inc.; specifying criteria; providing
 12 for terms and requirements of the directors; providing
 13 purposes of the fund; providing duties and
 14 responsibilities of the fund; authorizing the fund to
 15 negotiate all contract terms; providing for reimbursement
 16 for travel and other direct expenses; providing for powers
 17 of the fund; providing investment requirements for the
 18 fund; requiring the board of directors to issue an annual
 19 report on the activities of the fund; providing report
 20 requirements; providing an appropriation; providing an
 21 effective date.

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 23 Be It Enacted by the Legislature of the State of Florida:

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 25 Section 1. Sections 288.9621, 288.9622, 288.9623, and
 26 288.9624, Florida Statutes, are created to read:

27 288.9621 Short title.--Sections 288.9621-288.9624 may be
 28 cited as the "Florida Capital Formation Act."

29 288.9622 Findings and intent.--

30 (1) The Legislature finds and declares that there is a
 31 need to increase the availability of seed capital and early
 32 stage venture equity capital for emerging companies in the
 33 state, including, without limitation, enterprises in life
 34 sciences, information technology, advanced manufacturing
 35 processes, aviation and aerospace, and homeland security and
 36 defense, as well as other strategic technologies.

37 (2) It is the intent of the Legislature that this act
 38 serve to mobilize private investment in a broad variety of
 39 venture capital partnerships in diversified industries and
 40 geographies; retain private-sector investment criteria focused
 41 on rate of return; use the services of highly qualified managers
 42 in the venture capital industry regardless of location;
 43 facilitate the organization of the Florida Opportunity Fund as a
 44 fund-of-funds investor in seed and early stage venture capital
 45 and angel funds; and precipitate capital investment and
 46 extensions of credit to and in the Florida Opportunity Fund.

47 (3) It is the intent of the Legislature to mobilize
 48 venture equity capital for investment in such a manner as to
 49 result in a significant potential to create new businesses and
 50 jobs in this state that are based on high growth potential
 51 technologies, products, or services and that will further
 52 diversify the economy of this state.

53 288.9623 Definitions.--As used in ss. 288.9621-288.9624:

54 (1) "Board" means the board of directors of the Florida
 55 Opportunity Fund.

56 (2) "Fund" means the Florida Opportunity Fund.

57 288.9624 Florida Opportunity Fund; creation; duties.--

58 (1)(a) Enterprise Florida, Inc., shall facilitate the
59 creation of the Florida Opportunity Fund, a private, not-for-
60 profit corporation organized and operated under chapter 617.
61 Enterprise Florida, Inc., shall be the fund's sole shareholder
62 or member. The fund is not a public corporation or
63 instrumentality of the state. The fund shall manage its business
64 affairs and conduct business consistent with its organizational
65 documents and the purposes set forth in this section.
66 Notwithstanding the powers granted under chapter 617, the
67 corporation may not amend, modify, or repeal a bylaw or article
68 of incorporation without the express written consent of
69 Enterprise Florida, Inc.

70 (b) The vice chair of Enterprise Florida, Inc., shall
71 select from among its sitting board of directors a five-person
72 appointment committee. The appointment committee shall select
73 five initial members of a board of directors for the fund.

74 (c) The persons elected to the initial board of directors
75 by the appointment committee shall include persons who have
76 expertise in the area of the selection and supervision of early
77 stage investment managers or in the fiduciary management of
78 investment funds and other areas of expertise as considered
79 appropriate by the appointment committee.

80 (d) After election of the initial board of directors,
81 vacancies on the board shall be filled by vote of the board of
82 directors of Enterprise Florida, Inc., and board members shall
83 serve terms as provided in the fund's organizational documents.

84 (e) Members of the board are subject to any restrictions

85 on conflicts of interest specified in the organizational
86 documents and may not have an interest in any venture capital
87 investment selected by the fund under ss. 288.9621-288.9624.

88 (f) Members of the board shall serve without compensation,
89 but members, the president of the board, and other board
90 employees may be reimbursed for all reasonable, necessary, and
91 actual expenses as determined and approved by the board pursuant
92 to s. 112.061.

93 (g) The fund shall have all powers granted under its
94 organizational documents and shall indemnify members to the
95 broadest extent permissible under the laws of this state.

96 (2) Upon organization, the board shall conduct a national
97 solicitation for investment plan proposals from qualified
98 venture capital investment managers for the raising and
99 investing of capital by the Florida Opportunity Fund. Any
100 proposed investment plan must address the applicant's level of
101 experience, quality of management, investment philosophy and
102 process, provability of success in fundraising, prior investment
103 fund results, and plan for achieving the purposes of this act.
104 The board shall select only venture capital investment managers
105 having demonstrated expertise in the management of and
106 investment in companies.

107 (3) The board is responsible for negotiating the terms of
108 a contract with the Florida Opportunity Fund investment manager;
109 executing the contract with the selected venture capital
110 investment fund manager on behalf of the Florida Opportunity
111 Fund; managing the business affairs of the Florida Opportunity
112 Fund, such as accounting, audit, insurance, and related

113 requirements; soliciting and negotiating the terms of,
114 contracting for, and receiving investment capital and loan
115 proceeds with the assistance of the investment manager;
116 receiving investment returns; paying investors and debtors; and
117 reinvesting the investment returns in the fund in order to
118 provide additional venture capital investments designed to
119 result in a significant potential to create new businesses and
120 jobs in this state and further diversify the economy of this
121 state.

122 (4) For the purpose of mobilizing investment in a broad
123 variety of Florida-based, new technology companies and
124 generating a return sufficient to continue reinvestment, the
125 fund shall:

126 (a) Invest directly only in seed and early stage venture
127 capital funds that have experienced managers or management teams
128 with demonstrated experience, expertise, and a successful
129 history in the investment of venture capital funds, focusing on
130 opportunities in this state. The fund may not make direct
131 investments in individual businesses. While not precluded from
132 investing in venture capital funds that have investments outside
133 this state, the fund must require a venture capital fund to show
134 a record of successful investment in this state, to be based in
135 this state, or to have an office in this state staffed with a
136 full-time, professional venture investment executive in order to
137 be eligible for investment.

138 (b) Negotiate for investment capital or loan proceeds from
139 private, institutional, or banking sources.

140 (c) Negotiate any and all terms and conditions for its

141 investments.

142 (d) Invest only in funds that have raised capital from
 143 other sources so that the amount invested in an entity in this
 144 state is at least twice the amount invested by the fund.

145 (5) By December 1 of each year, the board shall issue an
 146 annual report concerning the activities conducted by the fund to
 147 the Governor, the President of the Senate, and the Speaker of
 148 the House of Representatives. The annual report, at a minimum,
 149 must include:

150 (a) An accounting of the amount of investments disbursed
 151 by the fund and the progress of the fund.

152 (b) A description of the benefits to this state resulting
 153 from the fund, including the number of businesses created,
 154 associated industries started, the number of jobs created, and
 155 the growth of related research projects.

156 (c) Independently audited financial statements, including
 157 statements that show receipts and expenditures during the
 158 preceding fiscal year for personnel, administration, and
 159 operational costs of the fund.

160 Section 2. The nonrecurring sum of \$30 million is
 161 appropriated from the General Revenue Fund to Enterprise
 162 Florida, Inc., for the Florida Opportunity Fund for the 2007-
 163 2008 fiscal year. Of these funds, \$500,000 shall be for the
 164 purpose of initiating activities necessary to implement the
 165 fund's responsibilities under this act, and \$29.5 million is
 166 provided for the purpose of making investments under s.
 167 288.9624, Florida Statutes.

168 Section 3. This act shall take effect July 1, 2007.