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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/3R	.	Floor: C
04/29/2010 02:53 PM	.	04/30/2010 06:57 PM
	.	

Senator Bennett moved the following:

Senate Amendment (with title amendment)

Between lines 251 and 252
insert:

Section 2. Section 288.9602, Florida Statutes, is amended
to read:

288.9602 Findings and declarations of necessity.—The
Legislature finds and declares that:

(1) There is a need to enhance economic activity in the
~~cities and counties of the~~ state by attracting manufacturing,
development, redevelopment of brownfield areas, business
enterprise management, and other activities conducive to
economic promotion in order to provide a stronger, more



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14 balanced, and stable economy in the ~~eities and counties of the~~
15 state.

16 (2) A significant portion of businesses located in the
17 ~~eities and counties of the~~ state or desiring to locate in the
18 ~~eities and counties of the~~ state encounter difficulty in
19 obtaining financing on terms competitive with those available to
20 businesses located in other states and nations or are unable to
21 obtain such financing at all.

22 (3) The difficulty in obtaining such financing impairs the
23 expansion of economic activity and the creation of jobs and
24 income in communities throughout the state.

25 (4) The businesses most often affected by these financing
26 difficulties are small businesses critical to the economic
27 development of the state ~~eities and counties of Florida~~.

28 (5) The economic well-being of the people in, and the
29 commercial and industrial resources of, ~~the eities and counties~~
30 ~~of~~ the state would be enhanced by the provision of financing to
31 businesses on terms competitive with those available in the most
32 developed financial markets worldwide.

33 (6) In order to improve the prosperity and welfare of ~~the~~
34 ~~eities and counties of~~ this state and its inhabitants, to
35 improve and promote the financing of projects related to the
36 economic development of ~~the eities and counties of~~ this state,
37 including redevelopment of brownfield areas, and to increase the
38 purchasing power and opportunities for gainful employment of
39 citizens of ~~the eities and counties of~~ this state, it is
40 necessary and in the public interest to facilitate the financing
41 of such projects as provided for in this act and to do so
42 without regard to the boundaries between counties,



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43 municipalities, special districts, and other local governmental
44 bodies or agencies in order to more effectively and efficiently
45 serve the interests of the greatest number of people in the
46 widest area practicable.

47 (7) In order to promote and stimulate development and
48 advance the business prosperity and economic welfare of ~~the~~
49 ~~cities and counties of~~ this state and its inhabitants; to
50 encourage and assist new business and industry in this state
51 through loans, investments, or other business transactions; to
52 rehabilitate and assist existing businesses; to stimulate and
53 assist in the expansion of all kinds of for-profit and not-for-
54 profit business activity; and to create maximum opportunities
55 for employment, encouragement of thrift, and improvement of the
56 standard of living of the citizens of Florida, it is necessary
57 and in the public interest to facilitate the cooperation and
58 action between organizations, public and private, in the
59 promotion, development, and conduct of all kinds of for-profit
60 and not-for-profit business activity in the state.

61 (8) In order to efficiently and effectively achieve the
62 purposes of this act, it is necessary and in the public interest
63 to create a special development finance authority to cooperate
64 and act in conjunction with public agencies of this state and
65 local governments of this state, through interlocal agreements
66 pursuant to the Florida Interlocal Cooperation Act of 1969, in
67 the promotion and advancement of projects related to economic
68 development, including redevelopment of brownfield areas,
69 throughout the state.

70 (9) The purposes to be achieved by the special development
71 finance authority through such projects and such financings of



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72 business and industry in compliance with the criteria and the
73 requirements of this act are predominantly the public purposes
74 stated in this section, and such purposes implement the
75 governmental purposes under the State Constitution of providing
76 for the health, safety, and welfare of the people of the state,
77 ~~including implementing the purpose of s. 10(c), Art. VII of the~~
78 ~~State Constitution and simultaneously provide new and innovative~~
79 ~~means for the investment of public trust funds in accordance~~
80 ~~with s. 10(a), Art. VII of the State Constitution.~~

81 Section 3. Subsections (6), (11), and (12) of section
82 288.9603, Florida Statutes, are amended to read:

83 288.9603 Definitions.—

84 (6) "Debt service" shall mean for any bonds issued by the
85 corporation or for any bonds or other form of indebtedness and
86 for which a guaranty has been issued pursuant to ss. 288.9606,
87 288.9607, and 288.9608, for any period for which such
88 determination is to be made, the aggregate amount of all
89 interest charges due or which shall become due on or with
90 respect to such bonds or indebtedness during the period for
91 which such determination is being made, plus the aggregate
92 amount of scheduled principal payments due or which shall become
93 due on or with respect to such bonds or indebtedness during the
94 period for which such determination is being made. Scheduled
95 principal payments may include only principal payments that are
96 scheduled as part of the terms of the original bond or
97 indebtedness issue and that result in the reduction of the
98 outstanding principal balance of the bonds or indebtedness.

99 (11) "Guaranty agreement" means an agreement by and between
100 the corporation and an applicant ~~a public agency~~ pursuant to the



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101 provisions of s. 288.9607.

102 (12) "Guaranty agreement fund" means the Energy,
103 Technology, and Economic Development Revenue Bond Guaranty Fund
104 Reserve Account established by the corporation pursuant to s.
105 288.9608.

106 Section 4. Section 288.9604, Florida Statutes, is amended
107 to read:

108 288.9604 Creation of the authority.—

109 ~~(1) Upon a finding of necessity by a city or county of this~~
110 ~~state, selected pursuant to subsection (2),~~ There is created a
111 public body corporate and politic known as the "Florida
112 Development Finance Corporation." The corporation shall be
113 constituted as a public instrumentality ~~of local government,~~ and
114 the exercise by the corporation of the powers conferred by this
115 act shall be deemed and held to be the performance of an
116 essential public function. The corporation has the power to
117 function within the corporate limits of any public agency with
118 which it has entered into an interlocal agreement for any of the
119 purposes of this act.

120 ~~(2) A city or county of Florida shall be selected by a~~
121 ~~search committee of Enterprise Florida, Inc. This city or county~~
122 ~~shall be authorized to activate the corporation. The search~~
123 ~~committee shall be composed of two commercial banking~~
124 ~~representatives, the Senate member of the partnership, the House~~
125 ~~of Representatives member of the partnership, and a member who~~
126 ~~is an industry or economic development professional.~~

127 (2)~~(3)~~ Upon activation of the corporation, The Governor,
128 subject to confirmation by the Senate, shall appoint the board
129 of directors of the corporation, who shall be five in number.



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130 The terms of office for the directors shall be for 4 years from
131 the date of their appointment. A vacancy occurring during a term
132 shall be filled for the unexpired term. A director shall be
133 eligible for reappointment. At least three of the directors of
134 the corporation shall be bankers who have been selected by the
135 Governor from a list of bankers who were nominated by Enterprise
136 Florida, Inc., and one of the directors shall be an economic
137 development specialist. The chairperson of the Florida Black
138 Business Investment Board shall be an ex officio member of the
139 board of the corporation.

140 (3)~~(4)~~(a) A director shall receive no compensation for his
141 or her services, but is entitled to the necessary expenses,
142 including travel expenses, incurred in the discharge of his or
143 her duties. Each director shall hold office until his or her
144 successor has been appointed.

145 (b) The powers of the corporation shall be exercised by the
146 directors thereof. A majority of the directors constitutes a
147 quorum for the purposes of conducting business and exercising
148 the powers of the corporation and for all other purposes. Action
149 may be taken by the corporation upon a vote of a majority of the
150 directors present, unless in any case the bylaws require a
151 larger number. Any person may be appointed as director if he or
152 she resides, or is engaged in business, which means owning a
153 business, practicing a profession, or performing a service for
154 compensation or serving as an officer or director of a
155 corporation or other business entity so engaged, within the
156 state.

157 (c) The directors of the corporation shall annually elect
158 one of their members as chair and one as vice chair. The



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159 corporation may employ a president, technical experts, and such
160 other agents and employees, permanent and temporary, as it
161 requires and determine their qualifications, duties, and
162 compensation. For such legal services as it requires, the
163 corporation may employ or retain its own counsel and legal
164 staff. The corporation shall file with the governing body of
165 each public agency with which it has entered into an interlocal
166 agreement and with the Governor, the Speaker of the House of
167 Representatives, the President of the Senate, the Minority
168 Leaders of the Senate and House of Representatives, and the
169 Auditor General, on or before 90 days after the close of the
170 fiscal year of the corporation, a report of its activities for
171 the preceding fiscal year, which report shall include a complete
172 financial statement setting forth its assets, liabilities,
173 income, and operating expenses as of the end of such fiscal
174 year.

175 (4) ~~(5)~~ The board may remove a director for inefficiency,
176 neglect of duty, or misconduct in office only after a hearing
177 and only if he or she has been given a copy of the charges at
178 least 10 days before ~~prior to~~ such hearing and has had an
179 opportunity to be heard in person or by counsel. The removal of
180 a director shall create a vacancy on the board which shall be
181 filled pursuant to subsection (4) ~~(3)~~.

182 Section 5. Section 288.9605, Florida Statutes, is amended
183 to read:

184 288.9605 Corporation powers.—

185 (1) The powers of the corporation created by s. 288.9604
186 shall include all the powers necessary or convenient to carry
187 out and effectuate the purposes and provisions of this act.



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188 (2) The corporation is authorized and empowered to:
189 (a) Have perpetual succession as a body politic and
190 corporate and adopt bylaws for the regulation of its affairs and
191 the conduct of its business.
192 (b) Adopt an official seal and alter the same at its
193 pleasure.
194 (c) Maintain an office at such place or places as it may
195 designate.
196 (d) Sue and be sued in its own name and plead and be
197 impleaded.
198 (e) Enter into interlocal agreements pursuant to s.
199 163.01(7) with public agencies of this state for the exercise of
200 any power, privilege, or authority consistent with the purposes
201 of this act.
202 (f) Issue, from time to time, revenue bonds, notes, or
203 other evidence of indebtedness, including, but not limited to,
204 taxable bonds and bonds the interest on which is exempt from
205 federal income taxation, for the purpose of financing and
206 refinancing any capital projects that promote economic
207 development within the state, thereby benefitting the citizens
208 of the state, ~~for applicants~~ and exercise all powers in
209 connection with the authorization, issuance, and sale of bonds,
210 subject to the provisions of s. 288.9606.
211 (g) Issue bond anticipation notes in connection with the
212 authorization, issuance, and sale of such bonds, pursuant to the
213 provisions of s. 288.9606.
214 (h) Make and execute contracts and other instruments
215 necessary or convenient to the exercise of its powers under the
216 act.



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217 (i) Disseminate information about itself and its
218 activities.

219 (j) Acquire, by purchase, lease, option, gift, grant,
220 bequest, devise, or otherwise, real property, together with any
221 improvements thereon, or personal property for its
222 administrative purposes or in furtherance of the purposes of
223 this act, ~~together with any improvements thereon.~~

224 (k) Hold, improve, clear, or prepare for development any
225 such property.

226 (l) Mortgage, pledge, hypothecate, or otherwise encumber or
227 dispose of any real or personal property.

228 (m) Insure or provide for insurance of any real or personal
229 property or operations of the corporation or any private
230 enterprise against any risks or hazards, including the power to
231 pay premiums on any such insurance.

232 (n) Establish and fund a guaranty fund in furtherance of
233 the purposes of this act.

234 (o) Invest funds held in reserve or sinking funds or any
235 such funds not required for immediate disbursement in property
236 or securities in such manner as the board shall determine,
237 subject to the authorizing resolution on any bonds issued, and
238 to terms established in the investment agreement pursuant to ss.
239 288.9606, 288.9607, and 288.9608, and redeem such bonds as have
240 been issued pursuant to s. 288.9606 at the redemption price
241 established therein or purchase such bonds at less than
242 redemption price, all such bonds so redeemed or purchased to be
243 canceled.

244 (p) Borrow money and apply for and accept advances, loans,
245 grants, contributions, and any other form of financial



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246 assistance from the Federal Government or the state, county, or
247 other public agency ~~body~~ or from any sources, public or private,
248 for the purposes of this act and give such security as may be
249 required and enter into and carry out contracts or agreements in
250 connection therewith; and include in any contract for financial
251 assistance with the Federal Government or the state, county, or
252 other public agency for, or with respect to, any purposes under
253 this act and related activities such conditions imposed pursuant
254 to federal laws as the county or municipality or other public
255 agency deems reasonable and appropriate which are not
256 inconsistent with the provisions of this act.

257 (q) Make or have all surveys and plans necessary for the
258 carrying out of the purposes of this act, contract with any
259 person, public or private, in making and carrying out such
260 plans, and adopt, approve, modify, and amend such plans.

261 (r) Develop, test, and report methods and techniques and
262 carry out demonstrations and other activities for the promotion
263 of any of the purposes of this act.

264 (s) Apply for, accept, and utilize grants from the Federal
265 Government or the state, county, or other public agency
266 available for any of the purposes of this act.

267 (t) Make expenditures necessary to carry out the purposes
268 of this act.

269 (u) Exercise all or any part or combination of powers
270 granted in this act.

271 (v) Enter into investment agreements with the Florida Black
272 Business Investment Board concerning the issuance of bonds and
273 other forms of indebtedness and capital for the purposes of ss.
274 288.707-288.714.



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275 (w) Determine the situations and circumstances for
276 participation in partnerships by agreement with local
277 governments, financial institutions, and others associated with
278 the redevelopment of brownfield areas pursuant to the
279 Brownfields Redevelopment Act for a limited state guaranty of
280 revenue bonds, loan guarantees, or loan loss reserves.

281 Section 6. Subsections (3) and (5) of section 288.9606,
282 Florida Statutes, are amended, and subsection (7) is added to
283 that section, to read:

284 288.9606 Issue of revenue bonds.—

285 (3) Bonds issued under this section shall be authorized by
286 a public agency of this state pursuant to the terms of an
287 interlocal agreement, unless such bonds are issued pursuant to
288 subsection (7); may be issued in one or more series; and shall
289 bear such date or dates, be payable upon demand or mature at
290 such time or times, bear interest rate or rates, be in such
291 denomination or denominations, be in such form either with or
292 without coupon or registered, carry such conversion or
293 registration privileges, have such rank or priority, be executed
294 in such manner, be payable in such medium of payments at such
295 place or places, be subject to such terms of redemption, with or
296 without premium, be secured in such manner, and have such other
297 characteristics as may be provided by the corporation interlocal
298 ~~agreement issued pursuant thereto~~. Bonds issued under this
299 section may be sold in such manner, either at public or private
300 sale, and for such price as the corporation may determine will
301 effectuate the purpose of this act.

302 (5) In any suit, action, or proceeding involving the
303 validity or enforceability of any bond issued under this act, or



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304 the security therefor, any such bond reciting in substance that
305 it has been issued by the corporation in connection with any
306 purpose of the act shall be conclusively deemed to have been
307 issued for such purpose, and such purpose shall be conclusively
308 deemed to have been carried out in accordance with the act. The
309 complaint in any action to validate such bonds shall be filed
310 only in the Circuit Court for Leon County. The notice required
311 to be published by s. 75.06 shall be published only in Leon
312 County, and the complaint and order of the circuit court shall
313 be served only on the State Attorney of the Second Judicial
314 Circuit and on the state attorney of each circuit in each county
315 where the public agencies which were initially a party to the
316 interlocal agreement are located. Notice of such proceedings
317 shall be published in the manner and the time required by s.
318 75.06, in Leon County and in each county where the public
319 agencies which were initially a party to the interlocal
320 agreement are located. Obligations of the corporation pursuant
321 to a loan agreement as described in this subsection may be
322 validated as provided in chapter 75. The validation of at least
323 the first bonds approved by the corporation shall be appealed to
324 the Florida Supreme Court. ~~The complaint in the validation~~
325 ~~proceeding shall specifically address the constitutionality of~~
326 ~~using the investment of the earnings accrued and collected upon~~
327 ~~the investment of the minimum balance funds required to be~~
328 ~~maintained in the State Transportation Trust Fund to guarantee~~
329 ~~such bonds. If such proceeding results in an adverse ruling and~~
330 ~~such bonds and guaranty are found to be unconstitutional,~~
331 ~~invalid, or unenforceable, then the corporation shall no longer~~
332 ~~be authorized to use the investment of the earnings accrued and~~



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333 ~~collected upon the investment of the minimum balance of the~~
334 ~~State Transportation Trust Fund to guarantee any bonds.~~

335 (7) Notwithstanding any provision of this section, the
336 corporation in its corporate capacity may, without authorization
337 from a public agency under s. 163.01(7), issue revenue bonds or
338 other evidence of indebtedness under this section to:

339 (a) Finance the undertaking of any project within the state
340 that promotes renewable energy as defined in s. 377.803 or s.
341 366.91;

342 (b) Finance the undertaking of any project within the state
343 that is a project contemplated or allowed under s. 406 of the
344 American Recovery and Reinvestment Act of 2009; or

345 (c) If permitted by federal law, finance qualifying
346 improvement projects within the state under s. 163.08.

347 Section 7. Section 288.9607, Florida Statutes, is amended
348 to read:

349 288.9607 Guaranty of bond issues.-

350 (1) The corporation ~~may is hereby authorized to~~ approve or
351 deny, by a majority vote of the membership of the directors, a
352 guaranty of debt service payments for bonds or other
353 indebtedness used to finance any capital project that promotes
354 economic development in the state, including, but not limited
355 to, those capital projects for which revenue bonds are the
356 guaranty of any revenue bonds issued under pursuant to this act,
357 if any such guaranty does not exceed 5 percent of the total
358 aggregate principal amount of bonds or other indebtedness
359 relating to any one capital project. The corporation may also
360 use moneys deposited into the Energy, Technology, and Economic
361 Development Guaranty Fund to satisfy requirements to obtain



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362 federal loan guarantees for capital projects authorized pursuant
363 to this section. ~~The guaranty may also be of the obligations of~~
364 ~~the corporation with respect to any letter of credit, bond~~
365 ~~insurance, or other form of credit enhancement provided by any~~
366 ~~person with respect to any revenue bonds issued by the~~
367 ~~corporation pursuant to this act.~~

368 (2) Any applicant ~~for financing from the corporation,~~
369 requesting a guaranty of ~~the bonds issued by~~ the corporation
370 under this act must submit a guaranty application, in a form
371 acceptable to the corporation, together with supporting
372 documentation to the corporation as provided in this section.

373 (3) All applicants which have entered into a guaranty
374 agreement with the corporation shall pay a guaranty premium on
375 such terms and at such rates as the corporation shall determine
376 before ~~prior to~~ the issuance of the guaranty ~~bonds~~. The
377 corporation may adopt such guaranty premium structures as it
378 deems appropriate, including, without limitation, guaranty
379 premiums which are payable one time upon the issuance of the
380 guaranty ~~bonds~~ or annual premiums payable upon the outstanding
381 principal balance of bonds or other indebtedness that is
382 guaranteed from time to time. The premium payment may be
383 collected by the corporation from any ~~the~~ lessee of the project
384 involved, from the applicant, or from any other payee of any ~~the~~
385 loan agreement involved.

386 (4) All applications for a guaranty must acknowledge that
387 as a condition to the issuance of the guaranty, the corporation
388 may require that the financing must be secured by a mortgage or
389 security interest on the property acquired which will have such
390 priority over other liens on such property as may be required by



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391 the corporation, and that the financing must be guaranteed by
392 such person or persons with such ownership interest in the
393 applicant as may be required by the corporation.

394 (5) Personal financial records, trade secrets, or
395 proprietary information of applicants delivered to or obtained
396 by the corporation shall be confidential and exempt from the
397 provisions of s. 119.07(1).

398 (6) If the application for a guaranty is approved by the
399 corporation, the corporation and the applicant shall enter into
400 a guaranty agreement. In accordance with the provisions of the
401 guaranty agreement, the corporation guarantees to use the funds
402 on deposit in its Energy, Technology, and Economic Development
403 Guaranty Fund Revenue Bond Guaranty Reserve Account to meet debt
404 service amortization payments on the bonds or indebtedness as
405 they become due, in the event and to the extent that the
406 applicant is unable to meet such payments ~~in accordance with the~~
407 ~~terms of the bond indenture when called to do so by the trustee~~
408 ~~of the bondholders~~, or to make similar payments to reimburse any
409 person which has provided credit enhancement for the bonds and
410 which has advanced funds to meet such debt service amortization
411 payments as they become due, if such guaranty of the corporation
412 is limited to 5 percent of the total aggregate principal amount
413 of bonds or other indebtedness relating to any one capital
414 project. The corporation may also use moneys deposited in the
415 Energy, Technology, and Economic Development Guaranty Fund to
416 satisfy requirements to obtain federal loan guarantees for
417 capital projects authorized under this section. If the applicant
418 defaults on debt service ~~bond amortization~~ payments, the
419 corporation may use funds on deposit in the Energy, Technology,



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420 ~~and Economic Development Guaranty Fund Revenue Bond Guaranty~~
421 ~~Reserve Account~~ to pay insurance, maintenance, and other costs
422 which may be required for the preservation of any capital
423 project or other collateral security for any bond or
424 indebtedness issued to finance a capital project for which debt
425 service payments are guaranteed by the corporation issued by the
426 corporation, or to otherwise protect the reserve account from
427 loss, or to minimize losses to the reserve account, in each case
428 in such manner as may be deemed necessary and advisable by the
429 corporation.

430 ~~(7)(a) The corporation is authorized to enter into an~~
431 ~~investment agreement with the Department of Transportation and~~
432 ~~the State Board of Administration concerning the investment of~~
433 ~~the earnings accrued and collected upon the investment of the~~
434 ~~minimum balance of funds required to be maintained in the State~~
435 ~~Transportation Trust Fund pursuant to s. 339.135(6)(b). Such~~
436 ~~investment shall be limited as follows:~~

437 ~~1. Not more than \$4 million of the investment earnings~~
438 ~~earned on the investment of the minimum balance of the State~~
439 ~~Transportation Trust Fund in a fiscal year shall be at risk at~~
440 ~~any time on one or more bonds or series of bonds issued by the~~
441 ~~corporation.~~

442 ~~2. The investment earnings shall not be used to guarantee~~
443 ~~any bonds issued after June 30, 1998, and in no event shall the~~
444 ~~investment earnings be used to guarantee any bond issued for a~~
445 ~~maturity longer than 15 years.~~

446 ~~3. The corporation shall pay a reasonable fee, set by the~~
447 ~~State Board of Administration, in return for the investment of~~
448 ~~such funds. The fee shall not be less than the comparable rate~~



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449 ~~for similar investments in terms of size and risk.~~

450 ~~4. The proceeds of bonds, or portions thereof, issued by~~
451 ~~the corporation for which a guaranty has been or will be issued~~
452 ~~pursuant to s. 288.9606, s. 288.9608, or this section used to~~
453 ~~make loans to any one person, including any related interests,~~
454 ~~as defined in s. 658.48, of such person, shall not exceed 20~~
455 ~~percent of the principal of all such outstanding bonds of the~~
456 ~~corporation issued prior to the first composite bond issue of~~
457 ~~the corporation, or December 31, 1995, whichever comes first,~~
458 ~~and shall not exceed 15 percent of the principal of all such~~
459 ~~outstanding bonds of the corporation issued thereafter, in each~~
460 ~~case determined as of the date of issuance of the bonds for~~
461 ~~which such determination is being made and taking into account~~
462 ~~the principal amount of such bonds to be issued. The provisions~~
463 ~~of this subparagraph shall not apply when the total amount of~~
464 ~~all such outstanding bonds issued by the corporation is less~~
465 ~~than \$10 million. For the purpose of calculating the limits~~
466 ~~imposed by the provisions of this subparagraph, the first \$10~~
467 ~~million of bonds issued by the corporation shall be taken into~~
468 ~~account.~~

469 ~~5. The corporation shall establish a debt service reserve~~
470 ~~account which contains not less than 6 months' debt service~~
471 ~~reserves from the proceeds of the sale of any bonds, or portions~~
472 ~~thereof, guaranteed by the corporation.~~

473 ~~6. The corporation shall establish an account known as the~~
474 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The~~
475 ~~corporation shall deposit a sum of money or other cash~~
476 ~~equivalents into this fund and maintain a balance of money or~~
477 ~~cash equivalents in this fund, from sources other than the~~



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478 ~~investment of earnings accrued and collected upon the investment~~
479 ~~of the minimum balance of funds required to be maintained in the~~
480 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
481 ~~year of maximum debt service on all outstanding bonds, or~~
482 ~~portions thereof, of the corporation for which a guaranty has~~
483 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In~~
484 ~~the event the corporation fails to maintain the balance required~~
485 ~~pursuant to this subparagraph for any reason other than a~~
486 ~~default on a bond issue of the corporation guaranteed pursuant~~
487 ~~to this section or because of the use by the corporation of any~~
488 ~~such funds to pay insurance, maintenance, or other costs which~~
489 ~~may be required for the preservation of any project or other~~
490 ~~collateral security for any bond issued by the corporation, or~~
491 ~~to otherwise protect the Revenue Bond Guaranty Reserve Account~~
492 ~~from loss while the applicant is in default on amortization~~
493 ~~payments, or to minimize losses to the reserve account in each~~
494 ~~case in such manner as may be deemed necessary or advisable by~~
495 ~~the corporation, the corporation shall immediately notify the~~
496 ~~Department of Transportation of such deficiency. Any~~
497 ~~supplemental funding authorized by an investment agreement~~
498 ~~entered into with the Department of Transportation and the State~~
499 ~~Board of Administration concerning the use of investment~~
500 ~~earnings of the minimum balance of funds is void unless such~~
501 ~~deficiency of funds is cured by the corporation within 90 days~~
502 ~~after the corporation has notified the Department of~~
503 ~~Transportation of such deficiency.~~

504 ~~(b) Unless specifically prohibited in the General~~
505 ~~Appropriations Act, the earnings accrued and collected upon the~~
506 ~~investment of the minimum balance of funds required to be~~



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507 ~~maintained in the State Transportation Trust Fund may continue~~
508 ~~to be used pursuant to paragraph (a).~~

509 ~~(e)~~ The guaranty is ~~shall not be~~ a general obligation of
510 the corporation or of the state, but is ~~shall be~~ a special
511 obligation, which constitutes the investment of a public trust
512 fund. In no event shall the guaranty constitute an indebtedness
513 of the corporation, the state ~~of Florida~~, or any political
514 subdivision thereof within the meaning of any constitutional or
515 statutory limitation. Each guaranty agreement shall have plainly
516 stated on the face thereof that it has been entered into under
517 the provisions of this act and that it does not constitute an
518 indebtedness of the corporation, the state, or any political
519 subdivision thereof within any constitutional or statutory
520 limitation, and that neither the full faith and credit of the
521 state ~~of Florida~~ nor any of its revenues is pledged to meet any
522 of the obligations of the corporation under such guaranty
523 agreement. Each such agreement shall state that the obligation
524 of the corporation under the guaranty shall be limited to the
525 funds available in the Energy, Technology, and Economic
526 Development Guaranty Fund Revenue Bond Guaranty Reserve Account
527 as authorized by this section.

528
529 ~~The corporation shall include, as part of the annual report~~
530 ~~prepared pursuant to s. 288.9610, a detailed report concerning~~
531 ~~the use of guaranteed bond proceeds for loans guaranteed or~~
532 ~~issued pursuant to any agreement with the Florida Black Business~~
533 ~~Investment Board, including the percentage of such loans~~
534 ~~guaranteed or issued and the total volume of such loans~~
535 ~~guaranteed or issued.~~



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536 (8) In the event the corporation does not approve the
537 application for a guaranty, the applicant shall be notified in
538 writing of the corporation's determination that the application
539 not be approved.

540 (9) The membership of the corporation is authorized and
541 directed to conduct such investigation as it may deem necessary
542 for promulgation of regulations to govern the operation of the
543 guaranty program authorized by this section. The regulations may
544 include such other additional provisions, restrictions, and
545 conditions as the corporation, after its investigation referred
546 to in this subsection, shall determine to be proper to achieve
547 the most effective utilization of the guaranty program. This may
548 include, without limitation, a detailing of the remedies that
549 must be exhausted by ~~the~~ bondholders, ~~or~~ a trustee acting on
550 their behalf, or other credit provided before ~~prior to~~ calling
551 upon the corporation to perform under its guaranty agreement and
552 the subrogation of other rights of the corporation with
553 reference to the capital project and its operation or the
554 financing in the event the corporation makes payment pursuant to
555 the applicable guaranty agreement. The regulations promulgated
556 by the corporation to govern the operation of the guaranty
557 program may ~~shall~~ contain specific provisions with respect to
558 the rights of the corporation to enter, take over, and manage
559 all financed properties upon default. These regulations shall be
560 submitted by ~~set forth the respective rights of~~ the corporation
561 to the Florida Energy and Climate Commission for approval ~~and~~
562 ~~the bondholders in regard thereto.~~

563 (10) The guaranty program described in this section may be
564 used by the corporation in conjunction with any federal guaranty



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565 programs described in s. 406 of the American Recovery and
566 Reinvestment Act of 2009. All policies, procedures, and
567 regulations of the guaranty program adopted by the corporation,
568 to the extent such guaranty program of the corporation is used
569 in conjunction with a federal guaranty program described in s.
570 406 of the American Recovery and Reinvestment Act of 2009, must
571 be consistent with s. 406 of the American Recovery and
572 Reinvestment Act of 2009.

573 Section 8. Section 288.9608, Florida Statutes, is amended
574 to read:

575 288.9608 Creation and funding of the Energy, Technology,
576 and Economic Development Guaranty Fund guaranty account.-

577 ~~(1) The corporation shall establish a debt service reserve~~
578 ~~account which contains not less than 6 months' debt service~~
579 ~~reserves from the proceeds of the sale of any bonds guaranteed~~
580 ~~by the corporation. Funds in such debt service reserve account~~
581 ~~shall be used prior to funds in the Revenue Bond Guaranty~~
582 ~~Reserve Account established in subsection (2). The corporation~~
583 ~~shall make best efforts to liquidate collateralized property and~~
584 ~~draw upon personal guarantees, and shall utilize the Revenue~~
585 ~~Bond Guaranty Reserve Account prior to use of supplemental~~
586 ~~funding for the Guaranty Reserve Account under the provisions of~~
587 ~~subsection (3).~~

588 ~~(2)(a)~~ The corporation shall establish an account known as
589 the Energy, Technology, and Economic Development Guaranty Fund
590 ~~Revenue Bond Guaranty Reserve Account, the Guaranty Fund.~~ The
591 corporation may ~~shall~~ deposit moneys ~~a sum of money~~ or other
592 cash equivalents into the ~~this~~ fund and maintain a balance in
593 the ~~this~~ fund, from general revenue funds of the state as are



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594 authorized for that purpose or any other designated funding
595 sources not inconsistent with state law ~~sources other than the~~
596 ~~State Transportation Trust Fund, not less than a sum equal to 1~~
597 ~~year of maximum debt service on all outstanding bonds, or~~
598 ~~portions thereof, of the corporation for which a guaranty has~~
599 ~~been issued pursuant to ss. 288.9606, 288.9607, and 288.9608.~~

600 (2) ~~(b)~~ If the corporation determines that the moneys in the
601 guaranty agreement fund are not sufficient to meet the
602 obligations of the guaranty agreement fund, the corporation is
603 authorized to use the necessary amount of any available moneys
604 that it may have which are not needed for, then or in the
605 foreseeable future, or committed to other authorized functions
606 and purposes of the corporation. Any such moneys so used may be
607 reimbursed out of the guaranty agreement fund if and when there
608 are moneys therein available for the purpose.

609 (3) ~~(e)~~ The determination of when additional moneys will be
610 needed for the guaranty agreement fund, the amounts that will be
611 needed, and the availability or unavailability of other moneys
612 shall be made solely by the corporation in the exercise of its
613 discretion. ~~However, supplemental funding for the Guaranty Fund~~
614 ~~as described in subsection (3) shall be made in accordance with~~
615 ~~the investment agreement of the corporation and the Department~~
616 ~~of Transportation and the State Board of Administration.~~

617 (3) ~~(a)~~ If the corporation determines that the funds in the
618 Guaranty Fund will not be sufficient to meet the present or
619 reasonably projected obligations of the Guaranty Fund, due to a
620 default on a loan made by the corporation from the proceeds of a
621 bond issued by the corporation which is guaranteed pursuant to
622 s. 288.9607(7), no later than 90 days before amortization



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623 ~~payments are due on such bonds, the corporation shall notify the~~
624 ~~Secretary of Transportation and the State Board of~~
625 ~~Administration of the amount of funds required to meet, as and~~
626 ~~when due, all amortization payments for which the Guaranty Fund~~
627 ~~is obligated. The Secretary of Transportation shall immediately~~
628 ~~notify the Speaker of the House of Representatives, the~~
629 ~~President of the Senate, and the chairs of the Senate and House~~
630 ~~Committees on Appropriations of the amount of funds required,~~
631 ~~and the projected impact on each affected year of the adopted~~
632 ~~work program of the Department of Transportation.~~

633 ~~(b) Within 30 days of the receipt of notification from the~~
634 ~~corporation, the Department of Transportation shall submit a~~
635 ~~budget amendment request to the Executive Office of the Governor~~
636 ~~pursuant to chapter 216, to increase budget authority to carry~~
637 ~~out the purposes of this section. Upon approval of said~~
638 ~~amendment, the department shall proceed to amend the adopted~~
639 ~~work program, if necessary, in accordance with the amendment.~~
640 ~~Within 60 days of the receipt of notification, and subject to~~
641 ~~approval of the budget authority, the Secretary of~~
642 ~~Transportation shall transfer, subject to the amount available~~
643 ~~from the source described in paragraph (c), the amount of funds~~
644 ~~requested by the corporation required to meet, as and when due,~~
645 ~~all amortization payments for which the Guaranty Fund is~~
646 ~~obligated. Any moneys so transferred shall be reimbursed to the~~
647 ~~Department of Transportation, with interest at the rate earned~~
648 ~~on investment by the State Treasury, from the funds available in~~
649 ~~the Guaranty Fund or as otherwise available to the corporation.~~

650 ~~(c) Pursuant to s. 288.9607(7), the Secretary of~~
651 ~~Transportation and the State Board of Administration may make~~



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652 ~~available for transfer to the Guaranty Fund, earnings accrued~~
653 ~~and collected upon the investment of the minimum balance of~~
654 ~~funds required to be maintained in the State Transportation~~
655 ~~Trust Fund. However, the earnings accrued and collected upon the~~
656 ~~investment of the minimum balance of funds required to be~~
657 ~~maintained in the State Transportation Trust Fund which shall be~~
658 ~~subject to transfer shall be limited to those earnings accrued~~
659 ~~and collected on the investment of the minimum balance of funds~~
660 ~~required to be maintained in the State Transportation Trust Fund~~
661 ~~for the fiscal year in which the notification is received by the~~
662 ~~secretary and fiscal years thereafter.~~

663 ~~(4) If the corporation receives supplemental funding for~~
664 ~~the Guaranty Fund under the provisions of this section, then any~~
665 ~~proceeds received by the corporation with respect to a loan in~~
666 ~~default, including proceeds from the sale of collateral for such~~
667 ~~loan, enforcement of personal guarantees or other pledges to the~~
668 ~~corporation to secure such loan, shall first be applied to the~~
669 ~~obligation of the corporation to repay the Department of~~
670 ~~Transportation pursuant to this section. Until such repayment is~~
671 ~~complete, no new bonds may be guaranteed pursuant to this~~
672 ~~section.~~

673 ~~(5) Prior to the use of the guaranty provided in this~~
674 ~~section, and on an annual basis, the corporation must certify in~~
675 ~~writing to the State Board of Administration and the Secretary~~
676 ~~of Transportation that it has fully implemented the requirements~~
677 ~~of this section and s. 288.9607 and the regulations of the~~
678 ~~corporation.~~

679 Section 9. Section 288.9609, Florida Statutes, is amended
680 to read:



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681 288.9609 Bonds as legal investments.—All banks, trust
682 companies, bankers, savings banks and institutions, building and
683 loan associations, savings and loan associations, investment
684 companies, and other persons carrying on a banking and
685 investment business; all insurance companies, insurance
686 associations, and other persons carrying on an insurance
687 business; and all executors, administrators, curators, trustees,
688 and other fiduciaries may legally invest any sinking funds,
689 moneys, or other funds belonging to them or within their control
690 in any bonds or other obligations issued by the corporation
691 ~~pursuant to an interlocal agreement with a public agency of this~~
692 ~~state.~~ Such bonds and obligations shall be authorized security
693 for all public deposits. It is the purpose of this section to
694 authorize all persons, political subdivisions, and officers,
695 public and private, to use any funds owned or controlled by them
696 for the purchase of any such bonds or other obligations. Nothing
697 contained in this section with regard to legal investments shall
698 be construed as relieving any person of any duty of exercising
699 reasonable care in selecting securities.

700 Section 10. Section 288.9610, Florida Statutes, is amended
701 to read:

702 288.9610 Annual reports of Florida Development Finance
703 Corporation.—By December 1 of each year, the Florida Development
704 Finance Corporation shall submit to the Governor, the President
705 of the Senate, the Speaker of the House of Representatives, the
706 Senate Minority Leader, and the House Minority Leader, ~~and the~~
707 ~~city or county activating the Florida Development Finance~~
708 ~~Corporation~~ a complete and detailed report setting forth:

709 (1) The evaluation required in s. 11.45(3)(j).



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710 (2) The operations and accomplishments of the Florida
711 Development Finance Corporation, including the number of
712 businesses assisted by the corporation.

713 (3) Its assets and liabilities at the end of its most
714 recent fiscal year, including a description of all of its
715 outstanding revenue bonds.

716 Section 11. Subsection (4) of section 206.46, Florida
717 Statutes, is amended to read:

718 206.46 State Transportation Trust Fund.—

719 (4) The department may authorize the investment of the
720 earnings accrued and collected upon the investment of the
721 minimum balance of funds required to be maintained in the State
722 Transportation Trust Fund pursuant to s. 339.135(6)(b). ~~Such~~
723 ~~investment shall be limited as provided in s. 288.9607(7).~~

724 Section 12. Subsection (14) of section 215.47, Florida
725 Statutes, is amended to read:

726 215.47 Investments; authorized securities; loan of
727 securities.—Subject to the limitations and conditions of the
728 State Constitution or of the trust agreement relating to a trust
729 fund, moneys available for investments under ss. 215.44-215.53
730 may be invested as follows:

731 (14) The State Board of Administration, consistent with
732 sound investment policy, may invest the earnings accrued and
733 collected upon the investment of the minimum balance of funds
734 required to be maintained in the State Transportation Trust Fund
735 pursuant to s. 339.135(6)(b). ~~Such investment shall be limited~~
736 ~~as provided in s. 288.9607(7).~~

737 Section 13. Subsection (3) of section 339.08, Florida
738 Statutes, is amended to read:



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739 339.08 Use of moneys in State Transportation Trust Fund.-

740 (3) The department may authorize the investment of the
741 earnings accrued and collected upon the investment of the
742 minimum balance of funds required to be maintained in the State
743 Transportation Trust Fund pursuant to s. 339.135(6)(b). ~~Such~~
744 ~~investment shall be limited as provided in s. 288.9607(7).~~

745 Section 14. Paragraph (f) of subsection (7) of section
746 339.135, Florida Statutes, is amended to read:

747 339.135 Work program; legislative budget request;
748 definitions; preparation, adoption, execution, and amendment.-

749 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.-

750 (f) The department may authorize the investment of the
751 earnings accrued and collected upon the investment of the
752 minimum balance of funds required to be maintained in the State
753 Transportation Trust Fund pursuant to paragraph (b). ~~Such~~
754 ~~investment shall be limited as provided in s. 288.9607(7).~~

755 Section 15. (1) The Legislature finds that the ability of
756 the pilot communities designated under the Energy Economic Zone
757 Pilot Program pursuant to s. 377.809, Florida Statutes, to
758 provide incentives is essential to these communities attracting
759 clean technology industries and investments to the state and
760 establishing the base information necessary to assess whether to
761 revise state policies and expand the pilot program to other
762 communities.

763 (2) By February 1, 2011, the Department of Community
764 Affairs and the Office of Tourism, Trade, and Economic
765 Development, in consultation with the Florida Energy and Climate
766 Commission, shall submit recommendations to the Governor, the
767 President of the Senate, and the Speaker of the House of



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768 Representatives of appropriate incentives and statutory
769 revisions necessary to provide the pilot communities with the
770 tools for accomplishing the goals of the pilot program. In
771 developing their recommendations, the Department of Community
772 Affairs and the Office of Tourism, Trade, and Economic
773 Development, at a minimum, shall consider:

774 (a) Fiscal and regulatory incentives.

775 (b) A jobs tax credit and corporate property tax credit
776 pursuant to chapter 220, Florida Statutes.

777 (c) Refunds and exemptions from the sales and use tax in
778 chapter 212, Florida Statutes, for job creation, building
779 materials, business property, and products used for clean
780 technology industries and investments within the designated
781 energy economic zones.

782 (3) The Department of Community Affairs and the Office of
783 Tourism, Trade, and Economic Development shall also coordinate
784 with the pilot communities and clean technology industries in
785 identifying incentives and strategies that will help attract
786 emerging clean technology industries and investments to the
787 state.

788
789
790 ===== T I T L E A M E N D M E N T =====

791 And the title is amended as follows:

792 Delete line 36

793 and insert:

794 local government's home rule authority; amending ss.
795 288.9602 and 288.9603, F.S.; revising legislative
796 findings and declarations and definitions for purposes



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797 of the Florida Development Finance Corporation Act;
798 amending s. 288.9604, F.S.; revising requirements for
799 the establishment and organization of the Florida
800 Development Finance Corporation; amending s. 288.9605,
801 F.S.; revising the powers of the corporation; amending
802 s. 288.9606, F.S.; revising requirements for the
803 corporation's issuance of revenue bonds; amending s.
804 288.9607, F.S.; limiting the corporation's approval of
805 guaranties for debt service for bonds or other
806 indebtedness for any one capital project; deleting
807 provisions for the corporation's investment of certain
808 funds in the State Transportation Trust Fund;
809 authorizing guarantes to be used in conjunction with
810 federal guaranty programs; amending s. 288.9608, F.S.;
811 creating the Energy, Technology, and Economic
812 Development Guaranty Fund; providing for the deposit
813 and use of certain moneys in the fund; deleting
814 requirements for the corporation's debt service
815 reserve account and Revenue Bond Guaranty Reserve
816 Account; amending ss. 288.9609, 288.9610, 206.46,
817 215.47, 339.08, and 339.135, F.S.; conforming
818 provisions to changes made by the act; providing
819 legislative findings; requiring the Department of
820 Community Affairs and the Office of Tourism, Trade,
821 and Economic Development, in consultation with the
822 Florida Energy and Climate Commission, to submit
823 recommendations to the Governor and Legislature
824 relating to the Energy Economic Zone Pilot Program;
825 requiring coordination with the pilot communities and



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826 clean technology industries in identifying certain
827 incentives and strategies; providing an effective
828 date.