

HB 1381

2011

1 A bill to be entitled
2 An act relating to the Technology Seed Capital Fund;
3 providing definitions; providing for the creation of the
4 Technology Seed Capital Fund by the Institute for the
5 Commercialization of Public Research; providing for the
6 creation of a fund management committee by the board of
7 directors of the institute; forbidding members of the
8 committee from investing in a company for a specified
9 period after an investment in a company is approved;
10 specifying responsibilities of the institute and the fund
11 management committee with respect to the fund; specifying
12 the requirements for an investment management plan
13 proposal from interested applicants for the investment
14 manager position; specifying the authority of the
15 investment manager for the fund; specifying qualifications
16 for investments of the fund; requiring that proposed
17 investments be matched by the private sector before the
18 fund invests; requiring that the company be domiciled in
19 the state and operate in one of the targeted industry
20 clusters; requiring that the company have certain
21 positions and abilities; limiting the amount of individual
22 investments of the fund; requiring earnings from the fund
23 to be reinvested; limiting the administrative costs of the
24 fund; requiring the institute to submit an annual report
25 to the Governor and Legislature relating to the activities
26 of the fund; providing an effective date.

27
28 WHEREAS, consistent access to significant risk capital at

HB 1381

2011

29 | all stages of development is integral to the creation and growth
30 | of small technology companies, and the maturation of these
31 | companies into the leading companies of tomorrow will facilitate
32 | the diversification of Florida's economy, and

33 | WHEREAS, young companies have little to no collateral with
34 | which to secure traditional loans and limited assets and track
35 | records with which to attract financing from private equity
36 | firms, and

37 | WHEREAS, this state is not the natural home of the venture
38 | capital industry, and as a result, companies in this state are
39 | severely disadvantaged in their efforts to attract venture
40 | capital investment, and

41 | WHEREAS, a lack of seed-stage funding exists in this state
42 | despite the fact that the leaders of this state have recognized
43 | the venture capital challenge and in recent years have taken
44 | significant action to help address it, in particular through the
45 | creation of the Florida Opportunity Fund and the Florida Growth
46 | Fund, and

47 | WHEREAS, to date very little capital is available to
48 | companies in this state in the crucial seed stage, and

49 | WHEREAS, the 2010-2015 Roadmap to Florida's Future called
50 | for the creation of a new mechanism for seed-stage funding to
51 | address the state's seed stage capital gap as part of a
52 | comprehensive strategy to promote high-tech, high-wage,
53 | innovation-driven growth, and

54 | WHEREAS, broad-based support exists among the state's
55 | economic development, business, and academic leaders for the
56 | creation of a Florida Technology Seed Capital Fund, and

57 WHEREAS, it is recommended that the state make a \$25
 58 million investment to establish a Technology Seed Capital Fund,
 59 NOW, THEREFORE,

60
 61 Be It Enacted by the Legislature of the State of Florida:

62
 63 Section 1. Technology Seed Capital Fund; creation;
 64 duties.-

65 (1) DEFINITIONS.-As used in this section, the term:

66 (a) "Fund" means the Technology Seed Capital Fund.

67 (b) "Institute" means the Institute for the
 68 Commercialization of Public Research.

69 (2) TECHNOLOGY SEED CAPITAL FUND.-

70 (a) Subject to legislative appropriations, the institute
 71 shall facilitate the creation of the fund. This fund shall be a
 72 private, nonprofit corporation organized and operated under
 73 chapter 617, Florida Statutes. The institute shall be the fund's
 74 sole shareholder or member. The fund is not a public corporation
 75 or instrumentality of the state. The fund shall manage its
 76 business affairs and conduct business consistent with its
 77 organizational documents and the purposes set forth in this
 78 section. Notwithstanding the powers granted under chapter 617,
 79 Florida Statutes, the fund may not amend, modify, or repeal a
 80 bylaw or article of incorporation without the express written
 81 consent of the institute.

82 (b) The board of directors of the institute shall direct
 83 its venture advisory board to elect or appoint a five-person
 84 fund management committee. Members of the committee shall serve

HB 1381

2011

85 without compensation, but are entitled to reimbursement for all
86 reasonable, necessary, and actual expenses authorized under s.
87 112.061, Florida Statutes, and as determined and approved by the
88 board of directors of the institute. Members of the committee
89 may not invest in any company receiving funding from the fund
90 for 6 months after an investment in the company by the fund is
91 formally approved. The staff of the institute shall provide
92 administrative support and assistance to the fund management
93 committee upon request.

94 (3) FUND MANAGEMENT COMMITTEE RESPONSIBILITIES.—

95 (a) Upon organization, the fund management committee shall
96 conduct a national solicitation for proposals for investment
97 management plans from interested parties. The investment
98 management plan must address the applicant's level of
99 experience, quality of management, investment philosophy and
100 process, proof of success in fund management and fundraising,
101 prior investment fund results, and plan for achieving the
102 purposes of this section.

103 (b) The fund management committee is responsible for
104 negotiating the terms of the contract with an investment manager
105 for the fund and for recommending the execution of the contract.

106 (c) The fund management committee must consult with the
107 board of directors of the institute before recommending the
108 pursuit of any investment management plan proposal or the hiring
109 of an investment manager for the fund.

110 (4) RESPONSIBILITIES OF THE INSTITUTE.—The board of
111 directors of the institute shall be responsible for managing the
112 business affairs of the fund, such as accounting, audit,

HB 1381

2011

113 insurance, and related requirements; soliciting and negotiating
114 the terms of, contracting for, and receiving investment capital
115 and 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 seed capital to facilitate the creation of
119 new businesses and jobs in this state and further diversify the
120 economy of this state.

121 (5) FUND MANAGER.—For the purpose of mobilizing investment
122 in Florida-based, new technology companies and generating a
123 return sufficient to continue reinvestment, the investment
124 manager of the fund may:

125 (a) Deploy the fund to make direct investments in
126 individual businesses;

127 (b) Negotiate any and all terms and conditions for
128 investments of the fund;

129 (c) Track progress of the companies in the fund's
130 portfolio; and

131 (d) Increase the visibility of the companies in the fund's
132 portfolio to help raise additional capital from private or
133 corporate sources.

134 (6) INVESTMENTS BY THE FUND.—

135 (a) The fund may not invest in a company unless:

136 1. The fund's proposed investment in a company is matched
137 at least 1 to 1 by the private sector before the fund invests;

138 2. The company is domiciled in this state and is operating
139 in one of the state's targeted industries as identified pursuant
140 to s. 288.106(2), Florida Statutes, which include, but are not

HB 1381

2011

141 limited to, life sciences, information technology, energy, clean
142 technology, advanced manufacturing processes, aviation and
143 aerospace, and homeland security and defense; and

144 3. The fund determines that the company has strong
145 intellectual property positions, a capable management team,
146 readily identifiable paths to market or commercialization, the
147 ability to obtain other sources of capital to leverage the
148 state's investment, and the potential to attract additional or
149 follow-on funding.

150 (b) Individual seed investments by the fund may range from
151 \$30,000 to \$300,000.

152 (c) Any earnings from the fund must be returned to the
153 fund to be reinvested consistent with the purposes of this act.

154 (7) ADMINISTRATIVE COSTS OF THE FUND.—The annual
155 administrative costs of the fund may not exceed 5 percent of the
156 total program appropriation, except that the fund may pay its
157 investment manager a carried interest.

158 (8) ANNUAL REPORT.—By December 1 of each year, the
159 institute shall issue an annual report concerning the
160 investments of the fund to the Governor, the President of the
161 Senate, and the Speaker of the House of Representatives. The
162 annual report, at a minimum, must include:

163 (a) An accounting of the amount of investments disbursed
164 by the fund and the progress of the fund.

165 (b) A description of the benefits to this state resulting
166 from the fund, including the number of businesses created,
167 additional capital raised, associated industries started, the
168 number of jobs created, and the growth of related research

HB 1381

2011

169 projects.

170 (c) Independently audited financial statements, including
171 statements that show receipts and expenditures during the
172 preceding fiscal year for the personnel, administration, and
173 operational costs of the fund. Any returns on the investments of
174 the fund shall be retained by the institute and reinvested in a
175 manner consistent with the mandates of this section.

176 Section 2. This act shall take effect July 1, 2011.