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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2016	.	
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The Committee on Commerce and Tourism (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 95 - 417

and insert:

Section 2. Subsections (1) and (2) of section 288.9622, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

288.9622 Findings and intent.—

(1) The Legislature finds and declares that there is a need to increase the availability of seed capital and early stage



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11 venture equity capital for emerging companies in the state,  
12 including, without limitation, enterprises in life sciences,  
13 information technology, advanced manufacturing processes,  
14 aviation and aerospace, and homeland security and defense, as  
15 well as other strategic technologies and for the purpose of  
16 supporting the public interest by leveraging public investment  
17 in infrastructure funding.

18 (2) It is the intent of the Legislature that this part  
19 serves ~~ss. 288.9621-288.9625 serve~~ to mobilize private  
20 investment in a broad variety of venture capital partnerships in  
21 diversified industries and geographies; retain private sector  
22 investment criteria focused on rate of return; use the services  
23 of highly qualified managers in the venture capital industry  
24 regardless of location; facilitate the organization of the  
25 Florida Opportunity Fund as an investor in seed and early stage  
26 businesses, infrastructure projects, venture capital funds,  
27 infrastructure funds, and angel funds; and precipitate capital  
28 investment and extensions of credit to and in the Florida  
29 Opportunity Fund.

30 (5) It is the intent of the Legislature that the Florida  
31 Opportunity Fund create, manage, operate, and invest in and from  
32 infrastructure funds, including the creation and operation of  
33 the Florida Infrastructure Fund Partnership; and that Florida  
34 Infrastructure Fund Partnership investments are focused on  
35 infrastructure development that could assist in mitigating, in  
36 whole or in part, the financial burden of the state for projects  
37 that could be funded directly by public funds.

38 Section 3. Section 288.9623, Florida Statutes, is amended  
39 to read:



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40           288.9623 Definitions.—As used in this part, the term ~~ss.~~  
41 ~~288.9621-288.9625:~~

42           (1) "Board" means the board of directors of the Florida  
43 Opportunity Fund.

44           (2) "Commitment agreement" means a contract between the  
45 partnership and an investment partner in which the partner  
46 commits to providing a specified amount of investment capital in  
47 exchange for an ownership interest in the partnership.

48           (3) "Contingent state revenue bonds" means state revenue  
49 bonds that are contingent upon a net capital loss incurred by an  
50 investment partner under s. 288.9629 and that are payable by the  
51 Department of Revenue from certain revenues received by the  
52 state under chapter 212, chapter 220, or ss. 624.509 and  
53 624.5091.

54           (4) "Corporation" means the Florida Development Finance  
55 Corporation.

56           (5)~~(2)~~ "Fund" means the Florida Opportunity Fund.

57           (6) "Infrastructure project" means a capital project in  
58 this state which addresses the need for a facility or other  
59 strategic infrastructure that serves a public purpose, including  
60 a water or a wastewater system, a communication system, a power  
61 system, a transportation system, a renewable energy system,  
62 other strategic infrastructure located in the state, or an  
63 ancillary or support system for any such project.

64           (7) "Investment capital" means the total capital committed  
65 by the investment partner, pursuant to a commitment agreement,  
66 for an equity interest in the partnership.

67           (8) "Investment partner" or "partner" means a person other  
68 than the partnership, the fund, or the trust that purchases or



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69 is the transferee of an ownership interest in the partnership.

70 (9) "Net capital loss" means an amount equal to the  
71 difference between the actual total investment capital advanced  
72 by the investment partner to the partnership and the actual  
73 amount of the aggregate distributions received by the investment  
74 partner.

75 (10) "Partnership" means the Florida Infrastructure Fund  
76 Partnership.

77 Section 4. Section 288.9628, Florida Statutes, is created  
78 to read:

79 288.9628 Florida Infrastructure Fund Partnership; creation;  
80 duties.-

81 (1) The Florida Opportunity Fund shall facilitate the  
82 creation of the Florida Infrastructure Fund Partnership, which  
83 shall be organized and operated under chapter 620 as a private,  
84 for-profit limited partnership or limited liability partnership  
85 with the fund as a general partner. The partnership shall manage  
86 its business affairs and conduct business consistent with its  
87 organizing documents and the purposes described in this section.  
88 However, the partnership is not an instrumentality of the state.

89 (2) The primary purposes of the partnership are to raise  
90 investment capital and to invest the capital in infrastructure  
91 projects in the state which promote economic development by  
92 leveraging private investment into public infrastructure  
93 projects.

94 (3) (a) As the general partner of the partnership, the fund  
95 shall manage the partnership's business affairs. At a minimum,  
96 the fund shall:

97 1. Hire one or more investment managers to assist with



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98 management of the partnership and to oversee the raising and  
99 investing of capital by the partnership. The evaluation of  
100 candidates must address their level of experience, investment  
101 philosophy and process, demonstrable success in fundraising, and  
102 prior investment results. Only candidates who have maintained an  
103 office with a full-time investment professional in this state  
104 for at least 2 years before the solicitation may be considered.

105 2. With the assistance of the investment manager or other  
106 service providers, solicit, negotiate the terms of, contract  
107 for, and receive investment capital.

108 3. Receive investment returns.

109 4. Disburse returns to investment partners.

110 5. Approve investments.

111 (b) The fund may lend up to \$750,000 to the partnership to  
112 pay the initial expenses associated with the organization of the  
113 partnership and solicitation of investment partners.

114 (4) (a) Beginning July 1, 2016, the partnership shall enter  
115 into commitment agreements with investment partners for  
116 investment in the partnership under terms approved by the fund's  
117 board.

118 (b) The total aggregate amount of principal investment  
119 capital payable to the partnership under all commitment  
120 agreements may not exceed \$350 million. If the partnership does  
121 not obtain commitment agreements totaling at least \$100 million  
122 by December 1, 2017, the partnership shall cancel any executed  
123 agreement and return the investment capital of each investment  
124 partner who executed an agreement.

125 (5) (a) The partnership may invest only in an infrastructure  
126 project:



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127       1. That fulfills an important infrastructure need in the  
128 state which could otherwise be funded by public investment.

129       2. That raises funding from other sources so that the total  
130 amount invested in the project is at least twice the amount  
131 invested by the partnership, inclusive of the partnership's  
132 investment.

133       3. For which legal measures exist, appropriate to the  
134 individual project, to ensure that the project is not closed due  
135 to fraud, to the detriment of the residents of the state.

136       (b) The partnership may not invest more than 20 percent of  
137 its total available investment capital in any single  
138 infrastructure project.

139       (c) The partnership may not invest in any infrastructure  
140 project that involves any phase of a project authorized under  
141 the Florida Rail Enterprise Act, ss. 341.8201-341.842.

142       (6) Before investing in an infrastructure project, the  
143 partnership shall assess whether the project will provide a  
144 continuing benefit to the residents of the state and evaluate  
145 the following:

146       (a) A written business plan for the project, including all  
147 expected revenue sources.

148       (b) The likelihood that the project will attract operating  
149 capital from additional investors, other lenders, or grants.

150       (c) The management team for the proposed project.

151       (d) The project's potential for job creation in the state.

152       (e) The financial resources of the entity proposing the  
153 project.

154       (f) Other factors that are consistent with this section and  
155 that are deemed by the partnership to be relevant to the



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156 likelihood of the project's success and public benefit derived  
157 from the investment.

158 (7) Beginning December 1, 2016, and each December 1  
159 thereafter, the partnership shall submit an annual report of its  
160 activities to the Governor, the President of the Senate, and the  
161 Speaker of the House of Representatives. The annual report must  
162 include, at a minimum:

163 (a) An accounting of the amounts of investment capital  
164 raised and disbursed by the partnership and the progress of the  
165 partnership, including the progress of each infrastructure  
166 project in which the partnership has invested.

167 (b) A description of the costs and benefits to the state of  
168 the partnership's investment in infrastructure projects,  
169 including a list of such projects; the costs and benefits of  
170 such projects to the state and, if applicable, to the county or  
171 municipality in which the project is located; the number of  
172 businesses and associated industries affected; the number and  
173 types of jobs created or retained, and the average annual wages  
174 of such jobs; and the impact on the state economy.

175 (c) Independently audited financial statements, including  
176 statements that show receipts and expenditures from the  
177 preceding fiscal year for the operational costs of the  
178 partnership.

179 (8) The partnership may not make its debts payable from any  
180 moneys or resources other than those of the partnership. An  
181 obligation of the partnership is not an obligation of the state  
182 or any political subdivision thereof and is payable exclusively  
183 from the partnership's resources.

184 (9) The partnership may not invest in an infrastructure



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185 project with, or accept investment capital from, a prohibited  
186 company described in s. 215.472 or a scrutinized company as  
187 defined in s. 215.473, and the entity owning an infrastructure  
188 project in which the partnership has invested must provide  
189 reasonable assurances to the partnership that the entity will  
190 not provide such a prohibited company or scrutinized company  
191 with an ownership interest in the infrastructure project.

192 Section 5. Section 288.9629, Florida Statutes, is created  
193 to read:

194 288.9629 Issuance of contingent state revenue bonds for the  
195 Florida Infrastructure Fund Partnership.—

196 (1) (a) Pursuant to s. 288.9628 and this section, the  
197 Florida Development Finance Corporation shall issue contingent  
198 state revenue bonds to investment partners in the Florida  
199 Infrastructure Fund Partnership in a maximum amount equal to the  
200 investment capital committed by such investment partners to the  
201 partnership.

202 (b) The corporation and the fund may seek reimbursement for  
203 their respective reasonable costs and expenses related to the  
204 partnership by charging a fee for the issuance of contingent  
205 state revenue bonds to investment partners. The fee may be up to  
206 0.25 percent of the aggregate investment capital committed to  
207 the partnership by the investment partners who are issued bonds.

208 (c) The total aggregate amount of all contingent state  
209 revenue bonds issued by the corporation may not exceed \$350  
210 million.

211 (d) A contingent state revenue bond must be issued  
212 concurrently with a commitment agreement between the investment  
213 partner and the partnership. A contingent state revenue bond





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214 issued by the corporation must include a specific calendar year  
215 maturity date designated by the corporation, which must be at  
216 least 12 years after the date of the agreement. Contingent state  
217 revenue bonds may be claimed or redeemed only by an investment  
218 partner or purchaser in accordance with this section and the  
219 terms of the contingent state revenue bond.

220 (e) After the investment capital is committed to the  
221 partnership by an investment partner and a contingent state  
222 revenue bond is issued to the investment partner, the bond is  
223 binding, and the partnership, the trust, the state, the  
224 Department of Revenue, and the Florida Development Finance  
225 Corporation may not substantively modify, terminate, or rescind  
226 the related contingent state revenue bond. A contingent state  
227 revenue bond may be modified to reflect the assignment or sale  
228 of contingent state revenue bonds and for other administrative  
229 purposes.

230 (2) (a) The partnership shall provide written notice to each  
231 investment partner if, on the maturity date in its commitment  
232 agreement, the partner has a net capital loss. At a minimum, the  
233 notice must include:

234 1. A good faith estimate of the fair market value of the  
235 partnership's assets as of the date of the notice.

236 2. The total investment capital provided by all investment  
237 partners as of the date of the notice.

238 3. The total amount of distributions received by the  
239 investment partners.

240 4. The amount payable by the Department of Revenue pursuant  
241 to the contingent state revenue bonds to which the investment  
242 partner is entitled.



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243       (b) The partnership shall concurrently provide a copy of  
244 each such notice to the corporation.

245       (c) Upon receipt of the notice from the partnership, each  
246 affected investment partner may make a one-time election to:

247       1. Transfer its ownership interest in the partnership and  
248 seek payment on the contingent state revenue bond in accordance  
249 with the bond's terms; or

250       2. Maintain the partner's investment in the partnership.

251       (d) The one-time election authorized in paragraph (c) is  
252 final and may not be revoked or modified. However, if the  
253 investment partner elects to maintain its investment in the  
254 partnership, it may make a new election if it receives a  
255 subsequent notice pursuant to subsection (2).

256       (e) An investment partner shall provide written notice to  
257 the partnership and the corporation of its election within 30  
258 days after its receipt of the notice from the partnership. If an  
259 investment partner fails to timely provide such notice, the  
260 investment partner is deemed to have elected to maintain its  
261 investment in the partnership under subparagraph (c)2.

262       (3) If an investment partner makes the election under  
263 subparagraph (2)(c)1., the investment partner must agree in  
264 writing to transfer its ownership interest in the partnership to  
265 the fund.

266       (4) (a) The corporation may not issue more than \$350 million  
267 in contingent state revenue bonds and may not approve contingent  
268 state revenue bonds in excess of the total capital committed  
269 through commitment agreements.

270       (b) At any time 90 days or more after the date of such  
271 owner's election under paragraph (2)(c), contingent state



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272 revenue bonds issued by the corporation under this section may  
273 be claimed for payment by the owner of such bonds by the  
274 Department of Revenue from revenues received by the state under  
275 chapter 212, chapter 220, or ss. 624.509 and 624.5091.

276 (c) The amount of contingent state revenue bonds which may  
277 be claimed by the owner of the bonds in any given state fiscal  
278 year may not exceed an amount equal to \$75 million multiplied by  
279 a fraction, the numerator of which is the amount of bonds that  
280 the corporation issued to such owner and the denominator of  
281 which is the total amount of all bonds that the corporation  
282 issued to contingent state revenue bond owners.

283 (d) Contingent state revenue bonds issued by the  
284 corporation under this section may be used by the owner of the  
285 bonds.

286 (e) To the extent that contingent state revenue bonds  
287 issued under this section are used by their owner to obtain  
288 payment from the state, the amount of such bonds becomes an  
289 obligation to the state by the partnership, secured exclusively  
290 by the ownership interest transferred to the fund by the  
291 investment partner whose investment generated the contingent  
292 state revenue bonds. In such case, the state's recovery is  
293 limited to such forfeited ownership interest. The corporation  
294 shall account for contingent state revenue bonds used under this  
295 section and make such information available to the partnership.  
296 The fund, as general partner, is not liable to the state for  
297 repayment of the used contingent state revenue bonds.

298 (f) Contingent state revenue bonds issued under this  
299 section are transferable in whole or in part by their owner. An  
300 owner of contingent state revenue bonds must notify the



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301 corporation of any such transfer.

302 (5) The Department of Revenue, upon the request of the  
303 partnership, shall provide the partnership or an investment  
304 partner with a written assurance that the contingent state  
305 revenue bonds will be honored by the corporation and the  
306 Department of Revenue as provided in this section.

307 (6) Chapter 517 does not apply to contingent state revenue  
308 bonds transferred or sold under this section.

309 Section 6. Paragraph (cc) is added to subsection (8) of  
310 section 213.053, Florida Statutes, to read:

311 213.053 Confidentiality and information sharing.-

312 (8) Notwithstanding any other provision of this section,  
313 the department may provide:

314 (cc) Information relating to contingent state revenue bonds  
315 under

316  
317 ===== T I T L E A M E N D M E N T =====

318 And the title is amended as follows:

319 Delete lines 4 - 86

320 and insert:

321 conforming a provision to changes made by the act;  
322 amending s. 288.9622, F.S.; modifying legislative  
323 findings and intent relating to the need for seed  
324 capital and venture equity capital to include  
325 infrastructure funding; conforming a provision to  
326 changes made by the act; amending s. 288.9623, F.S.;  
327 defining terms; conforming a provision to changes made  
328 by the act; creating s. 288.9628, F.S.; creating the  
329 Florida Infrastructure Fund Partnership as a private,



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330 for-profit limited partnership or limited liability  
331 partnership; providing for management of the  
332 partnership by the Florida Opportunity Fund; providing  
333 that the partnership is not an instrumentality of the  
334 state; providing the partnership's purposes and  
335 duties; authorizing the fund to lend moneys to the  
336 partnership; requiring the partnership to enter into  
337 commitment agreements with investment partners;  
338 providing requirements for commitment agreements;  
339 limiting the infrastructure projects that a  
340 partnership may invest in; prohibiting the partnership  
341 from investing more than a specified percentage of its  
342 total available investment capital in any single  
343 infrastructure project; prohibiting the partnership  
344 from investing in any infrastructure project that  
345 involves a project authorized under the Florida Rail  
346 Enterprise Act; providing evaluation requirements for  
347 infrastructure projects; requiring the partnership to  
348 submit an annual report to the Governor and the  
349 Legislature; prohibiting the partnership from making  
350 its debts payable from any money or resources other  
351 than those of the partnership; prohibiting the  
352 partnership from investing in projects with or  
353 accepting investments from certain companies; creating  
354 s. 288.9629, F.S.; requiring the Florida Development  
355 Finance Corporation to issue contingent state revenue  
356 bonds to investment partners in the Florida  
357 Infrastructure Fund Partnership; authorizing the  
358 corporation and the fund to charge fees; limiting the



359 amount of such fees; prohibiting the total aggregate  
360 amount of all contingent state revenue bonds from  
361 exceeding a specified amount; requiring a contingent  
362 state revenue bond to be issued concurrently with a  
363 certain commitment agreement; providing requirements  
364 for such bonds; requiring the partnership to provide a  
365 specified written notice to each investment partner  
366 under certain circumstances; specifying the minimum  
367 content for such notice; requiring the partnership to  
368 concurrently provide a copy of the notice to the  
369 corporation; authorizing each affected investment  
370 partner to make specified one-time elections upon the  
371 receipt of the notice; providing that such elections  
372 are final and may not be revoked or modified;  
373 requiring an investment partner to provide written  
374 notice to the partnership and the corporation of its  
375 election within a specified period after its receipt  
376 of notice from the partnership; requiring an  
377 investment partner to agree in writing to a certain  
378 transfer under certain circumstances; prohibiting the  
379 corporation from issuing contingent state revenue  
380 bonds in excess of a specified amount; prohibiting the  
381 corporation from approving contingent state revenue  
382 bonds in excess of a specified amount; authorizing the  
383 owner of contingent state revenue bonds to claim such  
384 bonds; prohibiting the owner of contingent state  
385 revenue bonds from claiming bonds in excess of a  
386 specified amount; providing that contingent state  
387 revenue bonds become an obligation to the state by the



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388 partnership in certain circumstances; requiring the  
389 corporation to account for such bonds and make such  
390 information available to the partnership; providing  
391 that the fund, as general partner, is not liable to  
392 the state for the repayment of used contingent state  
393 revenue bonds; providing that contingent state revenue  
394 bonds issued under this section are transferable in  
395 whole or in part by their owner; requiring the  
396 Department of Revenue to provide a certain written  
397 assurance to the partnership under certain  
398 circumstances; providing applicability; amending s.  
399 213.053, F.S.; authorizing the department to disclose  
400 certain information to the partnership and the  
401 corporation relative to certain contingent state  
402 revenue