

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 52-B

SPONSOR: Senator Klein

SUBJECT: Economic Development/Emerging and Strategic Technologies

DATE: October 23, 2001      REVISED: 10/25/01 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill creates the “Florida Emerging and Strategic Technologies Act.” It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, such as the information technology industry and the health technology industry. The bill contains policies relating to transfer of technology from universities, availability of capital for high-technology industries, and workforce development. The bill enacts some of the recommendations emanating from the Information Service Technology Development Task Force. Some of the principal provisions of the bill include:

- Specifying that economic development is a fundamental component of the mission of the state system of postsecondary education;
- Revising requirements relating to standards of conduct for university employees in the context of technology-transfer activities;
- Expressing the intent of the Legislature that the Board of Administration invest funds from the State Retirement System in a manner that complements the economic development goals of the state, including helping to provide venture capital to Florida-based businesses;
- Declaring that the information technology industry is a high-impact sector for the purposes of a grant program for businesses making significant investments in production or research and development facilities in the state;
- Authorizing a program that provides financial support for the establishment of joint-use advanced digital media research and production facilities which are designed to bring the educational and business communities together, in part to help address the workforce needs of the digital media industry;
- Providing for the continuation of the Digital Media Education Coordination Group;

- Requiring the Florida Board of Education to issue a report on technology-transfer and conflict-of-interest issues;
- Specifying that information technology activities are within the scope of the Florida Industrial Development Financing Act; and
- Transferring primary responsibility to Workforce Florida, Inc., for maintenance of a website designed to market the information technology industry and promote workforce recruitment for the industry.

This bill substantially amends the following sections of the Florida Statutes: 112.313, 159.26, 159.27, 159.705, 240.105, 240.710, 288.108, and 445.045. The bill creates section 121.155, Florida Statutes, and the bill also creates unnumbered sections of the Florida Statutes.

## II. Present Situation:

### Information Service Technology Development Task Force

The Legislature in 1999 created the Information Service Technology Development Task Force (task force) within the Department of Management Services (ch. 99-354, L.O.F.). The task force, which operated under the name “itflorida.com” and which dissolved effective July 1, 2001, was composed of 34 members from the public and private sectors. The charge of the task force included developing overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies; identifying factors that will affect the ability of such technologies to flourish in the state; and developing policy recommendations for each factor.

To achieve its purposes, the task force divided its stated directives among nine subcommittees. Each subcommittee developed policy recommendations according to its stated directive.<sup>1</sup> Policy recommendations from the eBusiness subcommittee included:

- Formation of a private entity, itflorida.com, Inc., to continue the work of the task force following the task force’s dissolution;
- Development of the information technology marketing and image campaign by Enterprise Florida, Inc., required under legislation adopted during the 2000 session (s. 34, ch. 2000-164, L.O.F.; s. 288.911, F.S.<sup>2</sup>);
- Expansion of the Certified Capital Company (CAPCO) Act under s. 288.99, F.S.;
- Revision of the \$30 million cap – to \$35 million – on the total state share of tax refund payments that may be scheduled for future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs;<sup>3</sup>

<sup>1</sup> The nine subcommittees included: eBusiness Development, Retention & Recruitment; eEducation K-12; eWorkforce; eAccess & Awareness; eGovernment; eLaws – Administrative & Regulatory; eLaws – Civil & Criminal; eInfrastructure & Technology Development; and eEntertainment (2001 Annual Report of the Information Service Technology Development Task Force, February 14, 2001, pp. 1-3).

<sup>2</sup> This statute requires EFI to “create a marketing campaign to help attract, develop, and retain information technology businesses in the state.” Further, the statute specifies that the “message of the campaign shall be to increase national and international awareness of this state as a state ideally suited for the successful advancement of the information technology business sector” (s. 288.911(1) and (2), F.S.).

- Creation of a broad-based sales tax credit for machinery and equipment purchased for use in research and development activities;
- Repeal of the tax on intangible personal property;
- Inclusion of “information technology” as a project activity eligible for industrial revenue bond financing;
- Designation of “information technology” as a sector eligible for participation in the state’s grant program for high-impact businesses under s. 288.108, F.S.; and
- Authorization by the Legislature of a study on whether to adopt the Uniform Computer Information Transactions Act (UCITA) (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 9-10).

Some of the recommendations of the eWorkforce subcommittee included:

- Provision of career education starting in middle school regarding careers in high technology and information technology;
- Creation of a corporate income tax program for employers who pay tuition and fees for employees or prospective employees enrolling in certain information technology programs; and
- Facilitation of partnerships between the private sector and the education community in targeted activities (*id.* at pp. 11-12).

Recommendations of the eEntertainment subcommittee included:

- Development of joint-use advanced digital media research and production facilities at strategic locations in the state, with the facilities serving as focal points for collaboration between the digital media industry and educational institutions; and
- Designation of the digital media industry as a high-impact sector for the purposes of some of the state’s incentive programs, such as the grant program for high-impact businesses under s. 288.108, F.S., and the QTI tax refund program under s. 288.106, F.S. (*id.* at p 14).

## **Digital Media**

During the 2000 regular session, the Legislature required the Board of Regents to create a Digital Media Education Coordination Group to develop a plan to enhance Florida’s ability to meet the current and future workforce needs of the digital media industry (s. 153, ch. 2000-165, L.O.F., as codified in s. 240.710, F.S.). The group issued its report to the Legislature in January 2001. One of the recommendations of the group was that a Florida Digital Media Coordinating Council be created to serve as a coordinating council for digital media education, research, and workforce development. The group provided that one of the council’s functions would be to plan for and seek public and private funding for a series of regional joint-use advanced digital media production facilities. The facilities would be designed to encourage collocation and collaboration between industry and educational entities. Among other purposes, the facilities would provide affordable access to state-of-the-art facilities for both academic and industry partner activities

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<sup>3</sup> During the 2001 session, the Legislature raised the statutory cap to \$35 million effective with the 2002-2003 fiscal year. *See* s. 41, ch. 2001-201, L.O.F.

and would provide professional development of students through involvement with actual industry projects (State University System of Florida, *Digital Media Education Coordination Group Report to the Florida Legislature*, January 1, 2001, p. 10).

### **Economic Development/Workforce Development Tools**

*Bond Financing:* Part II of ch. 159, F.S., is the “Florida Industrial Development Financing Act.” The federal government provides an annual allocation to the state for the issuance of tax exempt industrial revenue bonds. The estimated amount available in 1999 was \$765 million. Section 159.26, F.S., governs the legislative findings and purpose of the act and cites specific activities as being vital to the state in relation to the use of financing under the act, including, but not limited to, agriculture, tourism, urban development, historic preservation, education, and health care industries. The Information Service Technology Development Task Force recommended that information technology be added to the act as an eligible category of activities (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, p. 22).

*High Impact Performance Incentives:* Section 288.108, F.S., provides for the payment of grants to a business in a high-impact sector that makes a cumulative investment in the state of \$100 million and creates at least 100 full-time jobs. In the case of a research-and-development facility, the investment must be \$75 million, with 75 full-time jobs. The statute prescribes a process under which Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development select and designate the high-impact sectors eligible for the program. The statute currently specifies that the silicon-technology sector is a high-impact sector (s. 288.108(6)(i), F.S.). Although the information technology sector has been designated through the prescribed process, the task force recommended that the information technology be specifically cited in statute (*2001 Annual Report of the Information Service Technology Development Task Force* at p. 22).

*Internet-Based System for Information Technology Promotion and Workforce:* Section 445.045, F.S., requires the Department of Labor and Employment Security to facilitate efforts to ensure the development and maintenance of a website that promotes the information technology industry in Florida. In addition to containing information on the scope of the information technology industry in the state, the website is to contain information concerning employment opportunities at information technology businesses in the state.

### **Public Officers and Employees**

Part III of ch. 112, F.S., prescribes the code of ethics for public officers and employees. For purposes of this code, an “agency” includes any public school, community college, or state university. The code provides that “no public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or agency which is . . . doing business with an agency of which he or she is an officer or employee” (s. 112.313(7)(a), F.S.). The code further provides that an agency employee shall not “have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties” (*id.*). The statute provides an exemption

from these provisions in the case of a transaction that occurs as part of a university's general power to secure patents, copyrights, or trademarks or as part of a university's operation of a division of sponsored research (s. 112.313(12)(h), F.S.). The president of the university and the Chancellor of the Board of Regents must specifically approve the transaction.

The state's conflict of interest policies have been cited as one of the factors affecting the transfer of technology from the university setting to the marketplace. (*See Enterprise Florida, Inc., The Health Technology Industry in Florida: An Addendum to the Health Technology Discussion Paper (May 1997)*, September 1998, pp. 93-96.)

### **Post Secondary Education**

The statutory mission of the state system of postsecondary education is: 1) to develop human resources, 2) to discover and disseminate knowledge, 3) to extend knowledge and its application beyond the boundaries of its campuses, and 4) to serve and stimulate society by developing in students heightened intellectual, cultural, and humane sensitivities; scientific, professional, and technological expertise; and a sense of purpose (s. 240.105, F.S.). This statutory statement currently does not specifically cite "economic development" as being within the mission of the state system of postsecondary education.

### **Investments of Florida Retirement System Funds**

Chapter 121, F.S., governs the Florida Retirement System. The System Trust Fund is the trust fund established in the State Treasury for the purpose of holding and investing the contributions by members and employers of the Florida Retirement System and paying system benefits (s. 121.021(36), F.S.). The Board of Administration has responsibility for investing and reinvesting available funds of the System Trust Fund consistent with provisions contained in ch. 215, F.S. (s. 121.151, F.S.). The Investment Advisory Council is a six-member council that reviews the investments made by staff of the Board of Administration and that makes recommendations regarding investment policies, strategies, and procedures (s. 215.444, F.S.).

In 1995, the Board of Administration (board) contributed \$15 million toward the capitalization of the Cypress Equity Fund, which is a venture capital "fund of funds" concept developed by Enterprise Florida, Inc. (*See Office of Program Policy Analysis and Government Accountability, Review of the Enterprise Florida, Inc., Capital Development Board's Cypress Equity Fund*, Report No. 98-33, December 1998, p. 2.) The board and five financial institutions contributed a total of \$35.5 million, which has been invested in a portfolio of venture capital funds formed by professional venture capitalists, who, in turn, invest in individual businesses according to their individual investment criteria. This approach differs from a concept in which direct investments are made in individual companies.

### **III. Effect of Proposed Changes:**

This bill creates the "Florida Emerging and Strategic Technologies Act." It expresses the intent of the Legislature to enact policies designed to address issues affecting the viability and development of high-technology industries in the state, including but, not limited to, the information technology industry and the health technology industry. The bill contains policies

relating to workforce development, transfer of technology from universities, and availability of capital for such industries. The bill, in part, enacts some of the recommendations emanating from the Information Service Technology Development Task Force. Following is a section-by-section analysis of the bill.

**Section 1** provides that this act may be cited as the “Florida Emerging and Strategic Technologies Act.”

**Section 2** amends s. 112.313, F.S., relating to standards of conduct for public officers. The bill revises an existing exemption to the prohibition against a university employee having a contractual relationship with a business entity that is conducting business with the university. Currently there is an exemption in the case of a transaction that occurs as part of a university’s general power to secure patents, copyrights, or trademarks or as part of a university’s operation of a division of sponsored research (s. 112.313(12)(h), F.S.). This bill eliminates the requirement that such transactions be specifically approved by the Chancellor of the Board of Regents. In addition, the bill provides that a designee of the university president may approve the transaction, and the bill prescribes that the university’s guidelines must include procedures for the disclosure of significant financial interests.

**Section 3** creates s. 121.155, F.S., relating to investments of the Florida Retirement System in support of the state’s economic development goals. This new section of the Florida Statutes contains legislative findings that access to capital affects the growth of high technology businesses in the state and that the State Board of Administration (SBA), by virtue of its authority to invest state retirement system dollars, can influence the availability of capital for such businesses. The bill expresses the intent of the Legislature that the SBA continue to maximize opportunities to invest state retirement system dollars in a manner that complements economic development goals, such as investing funds in support of emerging and strategic technology businesses in the state and forming partnerships with venture capital firms to encourage investment of venture capital funds in these businesses. The bill requires the SBA to solicit information from Enterprise Florida, Inc. (EFI), on state economic development goals; to share such information with the SBA’s Investment Advisory Council; and to report to the Legislature on the SBA’s activities that further the legislative findings and intent.

**Sections 4 and 5** amends ss. 159.26 and 159.27, F.S., the “Florida Industrial Development Financing Act” to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act. Further, the bill provides a definition of the term “information technology facility,” which specifies – by North American Industry Classification System (NAICS) codes – the types of businesses included within the term.

**Section 6** amends s. 159.705, F.S., relating to the powers of a research and development authority. The bill specifies that a project that is located in a research and development park and that is financed through the Industrial Development Financing Act may be operated by a research and development authority, a state university, a state community college, or a governmental agency if the purpose and operation of the project are consistent with the policies governing research and development authorities.

**Section 7** amends s. 240.105, F.S., to provide that the mission of the state system of postsecondary education includes promoting “the economic development of the state.”

**Section 8** amends s. 240.710, F.S., to provide for continued functioning of the Digital Media Education Coordination Group that was created in 2000 to develop a plan for enhancing the state’s ability to meet the workforce needs of the digital media industry. The bill provides for the coordination group to be formed within the purview of the Division of Colleges and Universities at the Department of Education, rather than by the Board of Regents. Obsolete provisions related to the development of the plan are deleted, as the plan was submitted to the Legislature in January 2001. The bill provides, however, for the coordination group to continue to work on the issue of enhancing the state’s ability to meet the industry’s workforce needs. This section specifies that the coordination group shall work with the Division of Community Colleges; the Office of Tourism, Trade, and Economic Development; and the Articulation Coordinating Committee. The coordination group is required to report annually to the Florida Board of Education.

**Section 9** amends s. 288.108, F.S., relating to a grant program for high-impact businesses, to specify that the “information technology sector” is comprised of the types of businesses that produce the high impact the incentive is designed to encourage. This revision also provides that for the purposes of this economic development incentive, as well as the capital investment tax credit under s. 220.191, F.S., the information technology sector encompasses the digital media sector as defined by Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development. This section also replaces the term “silicon technology” with the term “semiconductor technology” for purposes of this industry’s existing designation as a high-impact business.

**Section 10** expresses the intent of the Legislature that, upon the dissolution of the Information Service Technology Development Task Force (task force), the state seek continued policy guidance on information technology issues from a not-for-profit corporation formed to advocate on behalf of the industry. The bill directs the State Technology Office; the Office of Tourism, Trade, and Economic Development; and Enterprise Florida, Inc., to assist with the initial formation and operation of the corporation, as well as to use the corporation as an information resource. One of the recommendations of the task force was that its function of serving as a resource on information technology issues be privatized. The task force envisioned that a statewide industry advocacy group would be formed and operate without public funds, and that the corporation would conduct activities comparable to those of the task force, such as advocating policies and promoting the industry (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 22-24).

**Section 11** requires the Florida Board of Education to report and issue recommendations to the Governor and Legislature by February 1, 2003, on the impact of existing statutes, regulations, policies, and procedures on the transfer and commercialization of technology from the university setting to the private sector and on the ability of university faculty, researchers, other staff, and students to establish relationships with business entities emanating from university research. The bill prescribes minimum requirements for such report, some of which include examining the code of ethics for public officers and employees to identify provisions that may impede

technology transfer and commercialization, and assessing the effectiveness of university policies and practices related to technology transfer and commercialization.

**Section 12** amends s. 445.045, F.S., relating to development of an Internet-based system for information technology industry promotion and workforce recruitment. The bill reassigns responsibility for the development and maintenance of this website to Workforce Florida, Inc. (WFI), from the Department of Labor and Employment Security. The bill also charges WFI with ensuring coordination and compatibility between the website operated under this section and the larger workforce information system required under s. 445.011, F.S. WFI also must coordinate its efforts with the efforts of Enterprise Florida, Inc., to develop a high-technology marketing campaign as required by s. 288.911, F.S. In addition, WFI is to work with the State Technology Office to ensure consistency with the state's information system strategy and enterprise architecture. The bill authorizes WFI to contract with public agencies for assistance in developing and maintaining the website, and it also authorizes WFI to procure services necessary to fulfill its responsibilities under this section, provided it utilizes competitive procurement practices.

**Section 13** expresses the Legislature's intent to support the creation of joint-use advanced digital-media research and production facilities in Florida, to provide opportunities for collaboration between research and education programs and the digital-media industry. To that end, the bill authorizes the Office of Tourism, Trade, and Economic Development (OTTED), subject to legislative appropriation, to create a program to facilitate establishment and maintenance of such facilities. OTTED is required to develop a strategic plan addressing the governance and funding of such facilities and may contract for the establishment of the facilities – maximizing the use and integration of existing facilities in the state that would be suitable as advanced digital-media facilities. The bill authorizes funding provided under this section to be used to lease or refurbish existing facilities. Any entity receiving state funds under this program is required to match such funding with non-state sources. In addition, any facility receiving funds must submit an operating plan to OTTED for approval, which plan must provide for the creation of a tenant association and for the collection of dues from tenants to support operation and maintenance of the facility. The bill authorizes OTTED to identify the specific types of businesses to be included within the meaning of "digital media" for the purposes of this section.

**Section 14** requires the Office of Tourism, Trade, and Economic Development, the Office of the Film Commissioner, and the Digital Media Education Coordination Group to report to the Legislature by February 1, 2002, on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities. (*See* section 13, above.)

**Section 15** provides that the act takes upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.



**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

This bill contains a number of provisions designed to create a business climate in the state conducive to the retention, growth, and recruitment of high-technology businesses. The precise impact on the private sector is not known.

**C. Government Sector Impact:**

The precise impact of this bill on the government sector is not known. The measure does require a number of actions by governmental or public-private entities, some of which include requiring:

- The Florida Board of Education to study issues related to technology transfer at public universities.
- Staff of the Board of Administration to regularly solicit information from Enterprise Florida, Inc. (EFI), on economic development strategies.
- Workforce Florida, Inc. (WFI), to maintain a website promoting the information technology industry and providing for workforce recruitment.
- The Office of Tourism, Trade, and Economic Development, the Office of the Film Commissioner, and the Digital Media Education Coordination Group to report to the Legislature on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities.

**VI. Technical Deficiencies:**

Sections 13 and 14 of the bill include references to the "Office of the Film Commissioner." During the 2001 legislative session, the statutory name for the office was changed to "Office of Film and Entertainment." *See* s. 5, ch. 2001-106, L.O.F.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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