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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
03/05/2018 10:53 AM	.	03/09/2018 10:17 PM
	.	

Senator Brandes moved the following:

Senate Amendment (with title amendment)

Between lines 22 and 23

insert:

Section 1. Paragraph (e) of subsection (4) and paragraph (b) of subsection (9) of section 20.60, Florida Statutes, are amended to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(4) The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business



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12 leaders, and economic development professionals to formulate and
13 implement coherent and consistent policies and strategies
14 designed to promote economic opportunities for all Floridians.
15 To accomplish such purposes, the department shall:

16 (e) Manage the activities of public-private partnerships
17 and state agencies in order to avoid duplication and promote
18 coordinated and consistent implementation of programs in areas
19 including, but not limited to, tourism; international trade and
20 investment; business recruitment, creation, retention, and
21 expansion; minority and small business development; rural
22 community development; ~~commercialization of products, services,~~
23 ~~or ideas developed in public universities or other public~~
24 ~~institutions;~~ and the development and promotion of professional
25 and amateur sporting events.

26 (9) The executive director shall:

27 (b) Serve as the manager for the state with respect to
28 contracts with Enterprise Florida, Inc., ~~the Institute for the~~
29 ~~Commercialization of Public Research,~~ and all applicable direct-
30 support organizations. To accomplish the provisions of this
31 section and applicable provisions of chapter 288, and
32 notwithstanding the provisions of part I of chapter 287, the
33 director shall enter into specific contracts with Enterprise
34 Florida, Inc., ~~the Institute for the Commercialization of Public~~
35 ~~Research,~~ and other appropriate direct-support organizations.
36 Such contracts may be for multiyear terms and must ~~shall~~ include
37 specific performance measures for each year. For purposes of
38 this section, the Florida Tourism Industry Marketing Corporation
39 and the Institute for Commercialization of Florida Technology
40 are not ~~is not an~~ appropriate direct-support organizations



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41 ~~organization.~~

42 Section 2. Section 288.9621, Florida Statutes, is amended
43 to read:

44 288.9621 Short title.—Sections 288.9621-288.96255 ~~Sections~~
45 ~~288.9621-288.9625~~ may be cited as the "Florida Capital Formation
46 Act."

47 Section 3. Section 288.9622, Florida Statutes, is amended
48 to read:

49 288.9622 Findings and intent.—

50 (1) The Legislature finds and declares that there is a need
51 to increase the availability of seed capital and early stage
52 investment ~~venture equity~~ capital for emerging companies in the
53 state, including, without limitation, businesses ~~enterprises~~ in
54 life sciences, information technology, advanced manufacturing
55 processes, aviation and aerospace, and homeland security and
56 defense, as well as other industries of strategic importance to
57 this state ~~strategic technologies~~.

58 (2) It is the intent of the Legislature that ss. 288.9621-
59 288.96255 ~~ss. 288.9621-288.9625~~ serve to mobilize private
60 investment in a broad variety of ~~venture capital~~ partnerships in
61 diversified industries and geographies; retain private sector
62 investment criteria focused on rate of return; allow the
63 Institute for Commercialization of Florida Technology to use the
64 services of highly qualified private fund managers experienced
65 in the seed and early stage development industry in this state;
66 outline the use, qualifications, and activities of the private
67 management, without any financial support or specific
68 appropriations from the state, by a private fund manager of the
69 assets of the Seed Capital Accelerator Program and the Florida



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70 Technology Seed Capital Fund investment portfolio of the
71 Institute for Commercialization of Florida Technology ~~venture~~
72 capital industry regardless of location; facilitate the
73 organization of the Florida Opportunity Fund as an investor in
74 seed and early stage businesses, infrastructure projects,
75 venture capital funds, and angel funds; and precipitate capital
76 investment and extensions of credit to and in the Florida
77 Opportunity Fund.

78 (3) It is the intent of the Legislature to mobilize
79 investment ~~venture equity~~ capital for investment in such a
80 manner as to result in a significant potential to create new
81 businesses and jobs in this state which ~~that~~ are based on high
82 growth potential technologies, products, or services and which
83 ~~that~~ will further diversify the economy of this state.

84 (4) It is the intent of the Legislature to reduce the
85 ongoing operational cost and burden of managing the Florida
86 Technology Seed Capital Fund and the Seed Capital Accelerator
87 Program to this state and eliminate any financial support or
88 specific appropriations from the state by engaging a private
89 asset management entity in this state which is familiar with the
90 seed and early stage investment industry in this state. This
91 entity would be responsible for the management of the assets of
92 the Seed Capital Accelerator Program and the Florida Technology
93 Seed Capital Fund investment portfolio without requiring ongoing
94 budget expenditures by this state or receiving any financial
95 support or specific appropriations from the state ~~that an~~
96 institute be created to mentor, market, and attract capital to
97 such commercialization ventures throughout the state.

98 Section 4. Section 288.9623, Florida Statutes, is amended



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99 to read:

100 288.9623 Definitions.—As used in ss. 288.9621-288.96255,
101 the term ~~ss. 288.9621-288.9625~~:

102 (1) "Accelerator program" means the Seed Capital
103 Accelerator Program managed by the institute.

104 (2) ~~(1)~~ "Board" means the board of directors of the Florida
105 Opportunity Fund.

106 (3) ~~(2)~~ "Fund" means the Florida Opportunity Fund.

107 (4) "Institute" means the Institute for Commercialization
108 of Florida Technology.

109 (5) "Investment portfolio" means individual or collective
110 investment assets held under the technology fund.

111 (6) "Net profits" means the total gross proceeds received
112 from the sale or liquidation of an asset of the investment
113 portfolio less any costs, legal fees, professional fees,
114 consulting fees, government fees, brokerage fees, taxes,
115 management fees pursuant to s. 288.9625(12)(b), disbursement to
116 private investors pursuant to s. 288.96255(6), or other fees,
117 costs, and expenses incurred in the sale or liquidation of any
118 of the investment portfolio assets.

119 (7) "Portfolio companies" means the companies who are part
120 of the Florida Technology Seed Capital Fund investment
121 portfolio.

122 (8) "Private fund manager" means the private entity, or its
123 designee, selected to manage the investment portfolio on behalf
124 of the institute.

125 (9) "Technology fund" means the Florida Technology Seed
126 Capital Fund managed by the institute.

127 Section 5. Section 288.9625, Florida Statutes, is amended



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128 to read:

129 288.9625 Institute for ~~the~~ Commercialization of Florida
130 Technology Public Research. ~~There is established at a public~~
131 ~~university or research center in this state the Institute for~~
132 ~~the Commercialization of Public Research.~~

133 (1) The institute is ~~shall be~~ a nonprofit ~~not-for-profit~~
134 corporation registered, incorporated, and operated in accordance
135 with chapter 617. The institute is not subject to control,
136 supervision, or direction by the department in any manner,
137 including, but not limited to, personnel, purchasing,
138 transactions involving real or personal property, and budgetary
139 matters.

140 (2) The purpose of the institute is to assist, without any
141 financial support or specific appropriations from the state, in
142 the commercialization of products developed by the research and
143 development activities of an innovation business, including, but
144 not limited to, those ~~as defined in s. 288.1089; a publicly~~
145 ~~supported college, university, or research institute; or any~~
146 ~~other publicly supported organization in this state.~~ The
147 institute shall fulfill its purpose in the best interests of the
148 state. The institute:

149 (a) Is a corporation primarily acting as an instrumentality
150 of the state pursuant to s. 768.28(2), for the purposes of
151 sovereign immunity;

152 (b) Is not an agency within the meaning of s. 20.03(11);

153 (c) Is subject to the open records and meetings
154 requirements of s. 24, Art. I of the State Constitution, chapter
155 119, and s. 286.011;

156 (d) Is not subject to ~~the provisions of~~ chapter 287;



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157 (e) Is ~~shall be~~ governed by the code of ethics for public
158 officers and employees as set forth in part III of chapter 112;
159 (f) May create corporate subsidiaries; and
160 (g) May not receive any financial support or specific
161 appropriations from the state ~~shall support existing~~
162 ~~commercialization efforts at state universities; and~~
163 ~~(h) May not supplant, replace, or direct existing~~
164 ~~technology transfer operations or other commercialization~~
165 ~~programs, including incubators and accelerators.~~
166 (3) The articles of incorporation of the institute must ~~be~~
167 ~~approved in a written agreement with the department. The~~
168 ~~agreement and the articles of incorporation shall:~~
169 (a) Provide that the institute shall provide equal
170 employment opportunities for all persons regardless of race,
171 color, religion, gender, national origin, age, handicap, or
172 marital status;
173 (b) Provide that the institute is subject to the public
174 records and meeting requirements of s. 24, Art. I of the State
175 Constitution;
176 (c) Provide that all officers, directors, and employees of
177 the institute are ~~shall be~~ governed by the code of ethics for
178 public officers and employees as set forth in part III of
179 chapter 112;
180 (d) Provide that members of the board of directors of the
181 institute are responsible for the prudent use of all public and
182 private funds and that they will ensure that the use of funds is
183 in accordance with all applicable laws, bylaws, and contractual
184 requirements, including those in subsection (15); and
185 (e) Provide that the fiscal year of the institute is from



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186 July 1 to June 30.

187 (4) The investment-related affairs of the institute shall
188 be managed by the private fund manager, and overseen by a board
189 of directors who shall serve without compensation. Each director
190 shall have only one vote. The chair of the board of directors
191 shall be selected by a majority vote of the directors, a quorum
192 being present. ~~The board of directors shall consist of the~~
193 ~~following five members:~~

194 ~~(a) The executive director of the department, or the~~
195 ~~director's designee.~~

196 ~~(b) The president of the university where the institute is~~
197 ~~located or the president's designee unless multiple universities~~
198 ~~jointly sponsor the institute, in which case the presidents of~~
199 ~~the sponsoring universities shall agree upon a designee.~~

200 (a) (e) The board of directors shall consist of three
201 directors appointed pursuant to the procedures and requirements
202 of this section by the Governor to 3-year staggered terms, to
203 which the directors may be reappointed.

204 (b) For any director appointed before July 1, 2018, the
205 term of service for that director may continue through the end
206 of his or her current term. The vacancy created by the
207 expiration of such term must be filled pursuant to the
208 procedures and requirements of this section.

209 (c) The bylaws of the institute shall be amended
210 accordingly by the board of directors to reflect the
211 requirements of this section.

212 (d) Upon vacancy, or within 90 days before an anticipated
213 vacancy by the expiration of a term of a director, the private
214 fund manager shall submit a list of three eligible nominees,



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215 which may include the incumbent director, to replace the
216 outgoing director. The board of directors, voting along with the
217 private fund manager, may appoint a director from the nominee
218 list or may request and appoint a director from a new list of
219 three nominees that were not included on the previous list.

220 (e) The persons appointed as replacement directors must
221 include persons who have expertise in the area of the selection
222 and supervision of early stage investment managers or in the
223 fiduciary management of investment funds and other areas of
224 expertise as considered appropriate.

225 (f) Directors are subject to any restrictions on conflicts
226 of interest specified in the organizational documents and may
227 not have a financial interest in any venture capital investment
228 in any portfolio company.

229 (g) Directors may be reimbursed for all reasonable,
230 necessary, and actual expenses as determined and approved by the
231 private fund manager pursuant to s. 112.061.

232 (h) The institute shall have all powers granted under its
233 organizational documents and shall indemnify its directors and
234 the private fund manager to the broadest extent permissible
235 under the laws of this state.

236 (5) The board of directors shall oversee the private fund
237 manager to ensure consistency with the Florida Capital Formation
238 Act, perform those duties as may be delegated to it in the
239 bylaws of the institute, and provide a copy of the institute's
240 annual report to the Governor, the President of the Senate, and
241 the Speaker of the House of Representatives, and the president
242 of the university at which the institute is located.

243 (6) The department, the president and the board of trustees



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244 ~~of the university where the institute is located,~~ the Auditor
245 General, and the Office of Program Policy Analysis and
246 Government Accountability may require and receive from the
247 institute or its independent auditor any detail or supplemental
248 data relative to the operation of the institute.

249 (7) To the extent funds for investment are available in the
250 technology fund, the private fund manager, on behalf of the
251 institute, may make an investment in a company or organization
252 if the following requirements are met:

253 (a) Before providing assistance, the institute accepted ~~To~~
254 ~~be eligible for assistance,~~ the company or organization
255 attempting to commercialize its product based on the guidelines
256 under s. 288.96255(4) must be accepted by the institute before
257 receiving the institute's assistance.

258 (b) The company or organization is based in this state
259 ~~institute shall receive recommendations from any publicly~~
260 ~~supported organization that a company that is commercializing~~
261 ~~the research, technology, or patents from a qualifying publicly~~
262 ~~supported organization should be accepted into the institute.~~

263 (c) The institute shall thereafter review the business
264 plans and technology information of each such recommended
265 company. If accepted, the institute shall mentor the company,
266 develop marketing information on the company, and use its
267 resources to attract capital investment into the company, as
268 well as bring other resources to the company which may foster
269 its effective management, growth, capitalization, technology
270 protection, or marketing or business success.

271 (8) The institute shall:

272 (a) Maintain a centralized location to showcase companies



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273 ~~and their technologies and products;~~
274 ~~(b) Develop an efficient process to inventory and publicize~~
275 ~~companies and products that have been accepted by the institute~~
276 ~~for commercialization;~~
277 ~~(c) Routinely communicate with private investors and~~
278 ~~venture capital organizations regarding the investment~~
279 ~~opportunities in its showcased companies;~~
280 ~~(d) Facilitate meetings between prospective investors and~~
281 ~~eligible organizations in the institute;~~
282 ~~(e) Hire full-time staff who understand relevant~~
283 ~~technologies needed to market companies to the angel investors~~
284 ~~and venture capital investment community; and~~
285 ~~(f) Develop cooperative relationships with publicly~~
286 ~~supported organizations all of which work together to provide~~
287 ~~resources or special knowledge that is likely to be helpful to~~
288 ~~institute companies.~~
289 (8)-(9) Except as provided under s. 288.96255, the institute
290 may not develop or accrue any ownership, royalty, patent, or
291 other such rights over or interest in companies or products in
292 the institute except in connection with financing provided
293 directly to client companies and shall maintain the
294 confidentiality of proprietary information.
295 ~~(10) The institute may not charge for services provided to~~
296 ~~state universities and affiliated organizations, community~~
297 ~~colleges, or state agencies; however, the institute may deliver~~
298 ~~and charge for services to private companies and affiliated~~
299 ~~organizations if providing a service does not interfere with the~~
300 ~~core mission of the institute. The institute may not use its~~
301 ~~capital in support of private companies or affiliated~~



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302 ~~organizations whose products were not developed by research and~~
303 ~~development activities of a publicly supported college,~~
304 ~~university, or research institute, or any other organization.~~

305 (9)~~(11)~~ By December 1 of each year, the institute shall
306 issue an annual report concerning its activities to the
307 Governor, the President of the Senate, and the Speaker of the
308 House of Representatives. The annual report shall be considered
309 a public record, as provided in paragraph (3) (b), subject to any
310 appropriate exemptions under s. 288.9627. The annual report must
311 ~~shall~~ include the following:

312 (a) Information on any assistance provided by the institute
313 to an innovation business, as defined in s. 288.1089;~~a publicly~~
314 ~~supported college, university, or research institute; or any~~
315 ~~other publicly supported organization in the state.~~

316 (b) A description of the benefits to this state resulting
317 from the institute, including the number of businesses created,
318 associated industries started, the number of jobs created, and
319 the growth of related projects.

320 (c) Independently audited financial statements, including
321 statements that show receipts and expenditures during the
322 preceding fiscal year for personnel, management fees,
323 administration, and operational costs of the institute.

324 (10) The private fund manager:

325 (a) Must be a for-profit limited liability company or a
326 for-profit corporation formed, governed, and operated in
327 accordance with chapter 605 or chapter 607, respectively.

328 (b) Shall conduct activities on behalf of the institute
329 which are consistent with the purposes set forth in this
330 section.



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331 (c) Must have expertise and experience in the management
332 and operation of early stage companies in this state.

333 (d) Must have experience with investment in early stage
334 ventures in this state and have a working knowledge and
335 understanding of the investment portfolio and the relevant
336 industries of the portfolio companies in this state.

337 (e) Shall employ personnel and professionals who have
338 knowledge of the investment portfolio and portfolio companies of
339 the institute, as well as financial, technical, and business
340 expertise to manage the technology fund activity.

341 (f) May not be a public corporation or instrumentality of
342 the state.

343 (g) Is not a corporation primarily acting as an
344 instrumentality of the state pursuant to s. 768.28(2), for the
345 purposes of sovereign immunity.

346 (h) Is not an agency within the meaning of s. 20.03(11).

347 (i) Is not subject to chapter 287.

348 (j) May not be governed by the code of ethics for public
349 officers and employees as set forth in part III of chapter 112.

350 (k) May not receive any specific appropriation from the
351 state in any amount.

352 (11) The purpose of the institute's use of a private fund
353 manager is to alleviate the state's burden of the continued and
354 future operational and management costs related to the
355 technology fund and accelerator program without the financial
356 support of or any specific appropriation from the state, while
357 allowing the institute, through the activities of the private
358 fund manager, to continue to foster greater private-sector
359 investment funding, to encourage seed-stage investments in



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360 startup and early stage companies, and to advise companies about
361 how to restructure existing management, operations, product
362 development, or service development to attract advantageous
363 business opportunities.

364 (12) The private fund manager shall assume the management
365 of the assets of the accelerator program and the technology fund
366 investment portfolios associated with the institute.

367 (a) The private fund manager has the authority on behalf of
368 the institute to:

369 1. Negotiate investment, sale, and liquidation terms with
370 portfolio and nonportfolio companies;

371 2. Develop and execute contracts, or amendments thereto,
372 with portfolio and nonportfolio companies;

373 3. Seek new qualified companies for the investment of funds
374 from the technology fund;

375 4. Receive, on behalf of the institute, investment capital
376 from the sale or liquidation of any portion of the investment
377 portfolio, loan proceeds, or other investment returns, and remit
378 such capital, proceeds, and returns to the technology fund
379 pursuant to s. 288.96255, except as otherwise provided in this
380 section and s. 288.96255; and

381 5. Perform additional duties set forth in s. 288.96255.

382 (b) The private fund manager shall be paid reasonable fees
383 consistent with industry fund management practices and
384 consisting of:

385 1. An operational management fee, including the
386 reimbursement of expenses, paid from the proceeds of the
387 repayment of loans from the accelerator program or other
388 capital, proceeds, and returns available in the technology fund;



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389 2. A portfolio fee paid from the proceeds of each sale or
390 liquidation of assets or portions of the assets of the
391 investment portfolio; and

392 3. A closing fee paid from the investment amount paid by
393 the technology fund to a company at the closing of each
394 investment.

395 (13) The private fund manager may undertake the following
396 activities on behalf of the institute:

397 (a) Mentor, assist with the development of marketing
398 information, and assist with attracting capital investment, as
399 well as bring other resources to the company which may foster
400 its effective management, growth, capitalization, technology
401 protection, or marketing or business success;

402 (b) Communicate with private investors and venture capital
403 organizations regarding investment opportunities in the
404 portfolio companies of the technology fund and accelerator
405 program;

406 (c) Facilitate meetings between prospective investors and
407 the companies; and

408 (d) Develop cooperative relationships with publicly
409 supported organizations that work together to provide resources
410 or special knowledge likely to be helpful to portfolio
411 companies.

412 (14) By November 1 of each year, the private fund manager
413 shall issue an annual report to the board of directors of the
414 institute concerning the activities the private fund manager
415 conducted which relate to existing accelerator program and
416 technology fund investments in order for the board to be in
417 compliance with its report obligations under subsection (9). The



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418 annual report provided by the private fund manager shall be
419 considered a public record, as provided in paragraph (3)(b),
420 subject to any appropriate exemptions under s. 288.9627. The
421 annual report, at a minimum, must include:

422 (a) A description of the benefits to this state resulting
423 from the assets of the accelerator program and technology fund,
424 including the number of jobs created, the amount of capital the
425 companies raised, and other benefits relating to increased
426 research expenditures and company growth.

427 (b) Independently audited financial statements related to
428 the receipt and calculation of the net profits of the investment
429 portfolio.

430 (15) If the institute receives any specific appropriation
431 from the state after July 1, 2018, the institute shall
432 immediately transfer such funds to the General Revenue Fund. The
433 institute, and all assets held by the institute, including all
434 assets and ownership interests held by the technology fund
435 pursuant to s. 288.96255, shall be liquidated immediately after
436 the receipt of such appropriation, and all proceeds of the sales
437 of such assets and ownership interests shall revert to the
438 General Revenue Fund.

439 Section 6. Subsection (1) and subsections (3) through (7)
440 of section 288.96255, Florida Statutes, are amended to read:

441 288.96255 Florida Technology Seed Capital Fund; creation;
442 duties.-

443 (1) The Institute for ~~the~~ Commercialization of Florida
444 Technology Public Research shall create the Florida Technology
445 Seed Capital Fund as a corporate subsidiary. The purpose of the
446 technology fund is, without any financial assistance or specific



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447 appropriations from the state, to foster greater private-sector
448 investment funding, to encourage seed-stage investments in
449 start-up companies, and to advise companies about how to
450 restructure existing management, operation, or production to
451 attract advantageous business opportunities. The net profits of
452 the proceeds of each sale or liquidation of assets or portions
453 of the assets of the investment portfolio must ~~a sale of the~~
454 ~~equity held by the fund shall~~ be returned to the technology fund
455 for reinvestment after payment of the applicable costs,
456 professional fees, expenses, fees pursuant to s.
457 288.9625(12) (b), and disbursement to private investors pursuant
458 to paragraph (6) (e).

459 (3) The institute shall employ a private fund manager
460 pursuant to s. 288.9625 ~~professionals who have both technical~~
461 ~~and business expertise~~ to manage the investment portfolio and
462 technology fund activity. The private fund manager institute
463 ~~shall establish an investor advisory board comprised of venture~~
464 ~~capital professionals and early-stage investors from this and~~
465 ~~other states who~~ shall advise the institute and guide the fund
466 management of the technology fund and make funding
467 recommendations, provided that capital for investment is
468 available in the technology fund. The private fund manager shall
469 receive reasonable fees consistent with industry practices for
470 performing due diligence and an investment closing fee paid out
471 of the technology fund at the closing of each investment in
472 addition to reasonable attorney fees, other fees prescribed in
473 s. 288.9625(12) (b), and other costs in connection with making an
474 investment. ~~Administrative costs paid out of the fund shall be~~
475 ~~determined by the investor advisory board.~~



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476 (4) The private fund manager institute shall use a thorough
477 and detailed process that is modeled after investment industry
478 practices ~~the best practices of the investment industry~~ to
479 evaluate a proposal. In order to approve a company for
480 investment, the private fund manager, on behalf of the
481 institute, must consider if:

482 (a) The company has a strong intellectual property
483 position, a capable management team, readily identifiable paths
484 to market or commercialization, significant job-growth
485 potential, the ability to provide other sources of capital to
486 leverage the state's investment, and the potential to attract
487 additional funding;

488 (b) The private fund manager has had an opportunity to
489 complete due diligence to its satisfaction ~~company has been~~
490 ~~identified by a publicly funded research institution;~~

491 (c) The ~~start-up~~ company is a target industry business as
492 defined in s. 288.106(2); and

493 (d) ~~The company has been identified by~~ An approved private-
494 sector lead investor who has demonstrated due diligence typical
495 of start-up investments in evaluating the potential of the
496 company has identified the company.; ~~and~~

497 ~~(e) The advisory board and fund manager have reviewed the~~
498 ~~company's proposal and recommended it.~~

499 (5) ~~(a) Seed Funds~~ from the technology fund may be invested
500 if the institute approves a company and the initial seed-stage
501 investment. ~~The initial seed stage investment must be at least~~
502 ~~\$50,000, but no more than \$300,000. The initial seed-stage~~
503 ~~investment requires a one-to-one, private-sector match of~~
504 ~~investment.~~



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505 ~~(b) Additional seed funds may be invested in a company if~~
506 ~~approved by the institute. The cumulative total of investment in~~
507 ~~a single company may not exceed \$500,000. Any additional~~
508 ~~investment amount requires a two-to-one, private-sector match of~~
509 ~~investment.~~

510 (6) The institute or private fund manager may:

511 (a) Provide a company with value-added support services in
512 the areas of business plan development and strategy, the
513 preparation of investor presentations, and other critical areas
514 identified by the private fund manager ~~institute~~ to increase its
515 chances for long-term viability and success;

516 (b) Encourage appropriate investment funds to become
517 preapproved to match investment funds;

518 (c) Market the attractiveness of the state as an early-
519 stage investment location; ~~and~~

520 (d) Collaborate with state economic-development
521 organizations, national associations of seed and angel funds,
522 and other innovation-based associations to create an enhanced
523 state entrepreneurial ecosystem; ~~and.~~

524 (e) Transfer any portion of the assets of the investment
525 portfolio, on behalf of the institute, into a private fund or
526 special purpose vehicle, receive additional private investment
527 in the private fund or special purpose vehicle, manage the
528 private fund or special purpose vehicle, and distribute to the
529 technology fund and the private investors the respective pro
530 rata portion of any net profits from the sale or liquidation of
531 the assets of such private fund or special purpose vehicle.

532 ~~(7) The institute shall annually evaluate the activities~~
533 ~~and results of the funding, taking into consideration that seed~~



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534 ~~investment horizons span from 3 to 7 years.~~

535 Section 7. Section 288.9627, Florida Statutes, is amended
536 to read:

537 288.9627 Exemptions from public records and public meetings
538 requirements for the Institute for ~~the~~ Commercialization of
539 Florida Technology Public Research.—

540 (1) DEFINITIONS.—As used in this section, the term:

541 (a) "Institute for ~~the~~ Commercialization of Florida
542 Technology Public Research" or "institute" means the institute
543 established by s. 288.9625.

544 (b)1. "Proprietary confidential business information" means
545 information that has been designated by the proprietor when
546 provided to the institute as information that is owned or
547 controlled by a proprietor; that is intended to be and is
548 treated by the proprietor as private, the disclosure of which
549 would harm the business operations of the proprietor and has not
550 been intentionally disclosed by the proprietor unless pursuant
551 to a private agreement that provides that the information will
552 not be released to the public except as required by law or legal
553 process, or pursuant to law or an order of a court or
554 administrative body; and that concerns:

555 a. Trade secrets as defined in s. 688.002.

556 b. Financial statements and internal or external auditor
557 reports of a proprietor corporation, partnership, or person
558 requesting confidentiality under this statute, unless publicly
559 released by the proprietor.

560 c. Meeting materials related to financial, operating,
561 investment, or marketing information of the proprietor
562 corporation, partnership, or person.



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563 d. Information concerning private investors in the
564 proprietor corporation, partnership, or person.

565 2. "Proprietary confidential business information" does not
566 include:

567 a. The identity and primary address of the proprietor's
568 principals.

569 b. The dollar amount and date of the financial commitment
570 or contribution made by the institute.

571 c. The dollar amount, on a fiscal-year-end basis, of cash
572 repayments or other fungible distributions received by the
573 institute from each proprietor.

574 d. The dollar amount, if any, of the total management fees
575 and costs paid on an annual fiscal-year-end basis by the
576 institute.

577 (c) "Proprietor" means a corporation, partnership, or
578 person that has applied for or received assistance, financial or
579 otherwise, from the institute and that controls or owns the
580 proprietary confidential business information.

581 (2) PUBLIC RECORDS EXEMPTION.—

582 (a) The following records held by the institute are
583 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
584 of the State Constitution:

585 1. Materials that relate to methods of manufacture or
586 production, potential trade secrets, or patentable material
587 received, generated, ascertained, or discovered during the
588 course of research or through research projects conducted by
589 universities and other publicly supported organizations in this
590 state and that are provided to the institute by a proprietor.

591 2. Information that would identify an investor or potential



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592 investor who desires to remain anonymous in projects reviewed by
593 the institute for assistance.

594 3. Any information received from a person from another
595 state or nation or the Federal Government which is otherwise
596 confidential or exempt pursuant to the laws of that state or
597 nation or pursuant to federal law.

598 4. Proprietary confidential business information for 7
599 years after the termination of the institute's financial
600 commitment to the company.

601 (b) At the time any record made confidential and exempt by
602 this subsection, or portion thereof, is legally available or
603 subject to public disclosure for any other reason, that record,
604 or portion thereof, shall no longer be confidential and exempt
605 and shall be made available for inspection and copying.

606 (3) PUBLIC MEETINGS EXEMPTION.—

607 (a) That portion of a meeting of the institute's board of
608 directors at which information is discussed which is
609 confidential and exempt under subsection (2) is exempt from s.
610 286.011 and s. 24(b), Art. I of the State Constitution.

611 (b) Any exempt portion of a meeting shall be recorded and
612 transcribed. The board of directors shall record the times of
613 commencement and termination of the meeting, all discussion and
614 proceedings, the names of all persons present at any time, and
615 the names of all persons speaking. An exempt portion of any
616 meeting may not be off the record.

617 (c) A transcript and minutes of exempt portions of meetings
618 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
619 I of the State Constitution.

620 (4) REQUEST TO INSPECT OR COPY A RECORD.—



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621 (a) Records made confidential and exempt by this section
622 may be released, upon written request, to a governmental entity
623 in the performance of its official duties and responsibilities.

624 (b) Notwithstanding the provisions of paragraph (2)(a), a
625 request to inspect or copy a public record that contains
626 proprietary confidential business information shall be granted
627 if the proprietor of the information fails, within a reasonable
628 period of time after the request is received by the institute,
629 to verify the following to the institute through a written
630 declaration in the manner provided by s. 92.525:

631 1. That the requested record contains proprietary
632 confidential business information and the specific location of
633 such information within the record;

634 2. If the proprietary confidential business information is
635 a trade secret, a verification that it is a trade secret as
636 defined in s. 688.002;

637 3. That the proprietary confidential business information
638 is intended to be and is treated by the proprietor as private,
639 is the subject of efforts of the proprietor to maintain its
640 privacy, and is not readily ascertainable or publicly available
641 from any other source; and

642 4. That the disclosure of the proprietary confidential
643 business information to the public would harm the business
644 operations of the proprietor.

645 (c)1. Any person may petition a court of competent
646 jurisdiction for an order for the public release of those
647 portions of any record made confidential and exempt by
648 subsection (2).

649 2. Any action under this subsection must be brought in Palm



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650 Beach County or Alachua County, and the petition or other
651 initial pleading shall be served on the institute and, if
652 determinable upon diligent inquiry, on the proprietor of the
653 information sought to be released.

654 3. In any order for the public release of a record under
655 this subsection, the court shall make a finding that:

656 a. The record or portion thereof is not a trade secret as
657 defined in s. 688.002;

658 b. A compelling public interest is served by the release of
659 the record or portions thereof which exceed the public necessity
660 for maintaining the confidentiality of such record; and

661 c. The release of the record will not cause damage to or
662 adversely affect the interests of the proprietor of the released
663 information, other private persons or business entities, or the
664 institute.

665 (5) PENALTIES.—Any person who willfully and knowingly
666 violates this section commits a misdemeanor of the first degree,
667 punishable as provided in s. 775.082 or s. 775.083.

668
669 ===== T I T L E A M E N D M E N T =====

670 And the title is amended as follows:

671 Delete lines 2 - 3

672 and insert:

673 An act relating to Florida business entities; amending
674 s. 20.60, F.S.; deleting the requirement that the
675 Department of Economic Opportunity manage certain
676 activities related to the commercialization of
677 specified products, services, and ideas; specifying
678 that the Institute for Commercialization of Florida



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679 Technology is not an appropriate direct-support
680 organization; amending s. 288.9621, F.S.; designating
681 an additional section as being included in the Florida
682 Capital Formation Act; amending s. 288.9622, F.S.;
683 revising legislative intent; amending s. 288.9623,
684 F.S.; defining terms; amending s. 288.9625, F.S.;
685 redesignating the Institute for the Commercialization
686 of Public Research as the Institute for
687 Commercialization of Florida Technology; specifying
688 that the institute is not subject to control,
689 supervision, or direction by the department; revising
690 the institute's responsibilities; requiring that the
691 investment-related affairs of the institute be managed
692 by the private fund manager and overseen by the board
693 of directors; restructuring the board of directors and
694 the selection process for the board of directors;
695 specifying term limits of the board members under
696 certain circumstances; requiring the board of
697 directors to amend the bylaws of the institute under
698 certain circumstances; providing that a director is
699 subject to restrictions on certain conflicts of
700 interest; prohibiting a director from having a
701 financial interest in certain investments; authorizing
702 a director to be reimbursed for certain expenses;
703 granting the institute certain powers; requiring the
704 institute to indemnify certain persons; delegating
705 certain duties to the board of directors; revising to
706 whom the board must provide a copy of the annual
707 report and who may require and receive supplemental



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708 data relative to the institute's operation; requiring
709 that certain requirements be met before the private
710 fund manager is authorized to make an investment in a
711 company, on behalf of the institute; deleting
712 provisions relating to certain duties of the
713 institute; deleting provisions relating to certain
714 fees charged by the institute and the prohibition on
715 using capital in support of certain entities;
716 specifying that the annual report is considered a
717 public record, subject to certain exemptions; revising
718 the requirements of the institute's annual report;
719 listing requirements and prohibitions for the private
720 fund manager; stating the purpose of the institute's
721 use of the private fund manager; requiring the private
722 fund manager to assume the management of certain
723 assets; authorizing the private fund manager to act on
724 behalf of the institute for certain purposes;
725 requiring that the private fund manager be paid
726 certain fees; authorizing the private fund manager to
727 undertake certain activities on behalf of the
728 institute; requiring the private fund manager to issue
729 an annual report to the board of directors by a
730 specific date; specifying that the annual report is
731 considered a public record subject to certain
732 exemptions; requiring that the report contain certain
733 information; requiring that the institute transfer any
734 funds received from a specific appropriation after a
735 specified date to the General Revenue Fund; requiring
736 that all assets held by the institute and the Florida



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737 Technology Seed Capital Fund be immediately liquidated
738 if the institute receives such an appropriation;
739 providing that all the proceeds resulting from such
740 liquidation revert to the General Revenue Fund;
741 amending s. 288.96255, F.S.; revising the purpose of
742 the technology fund; requiring that certain proceeds
743 be returned to the fund after the payment of certain
744 costs and fees; requiring the institute to employ a
745 private fund manager; requiring the private fund
746 manager to perform specific duties; requiring that the
747 private fund manager receive certain fees and costs at
748 a specified time; requiring the private fund manager
749 to use a certain process to evaluate a proposal;
750 requiring the private fund manager to consider certain
751 factors when approving a company for investment;
752 deleting specific requirements for the investment of
753 funds; authorizing the private fund manager, in
754 addition to the institute, to perform certain tasks;
755 amending s. 288.9627, F.S.; conforming provisions to
756 changes made by this act; amending s. 607.512, F.S.;

757 authorizing the