

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0052/P1dn

MPG:kjf:jf

May 17, 2013

Representative Kuglitsch:

Please review this draft carefully to ensure that it is consistent with your intent.

This draft substitute amendment to 2013 AB 181 places the fund of funds investment program under DOA instead of WEDC and incorporates AA 1 and AA 4 to AB 181. Because the substitute amendment requires DOA instead of WEDC to pay \$25,000,000 to the investment manager for fund of funds investments, the substitute amendment includes an appropriation authorizing DOA to make that expenditure in fiscal year 2013–14. As a result, because the biennial budget act repeals and recreates the appropriation schedule under s. 20.005 (3), stats., if this substitute amendment becomes law before enactment of the budget act and the budget act does not include the funding provided in the substitute amendment, the effect will be to eliminate that funding. Note also that the budget act currently contains language under ss. 16.004 (19) and 20.505 (1) (f), both created in AB 40, setting aside \$25,000,000 in fiscal year 2013–14 for a “capital investment program” to make “coinvestments in business startups and investment capital projects.”

Note that AA 4 requires the Legislative Audit Bureau to submit a letter of review to JCF that evaluates DOA’s proposed contract with the investment manager based in part on “the extent to which the proposed contract terms conform to normal practices in the venture capital industry.” However, JCF is only authorized under the substitute amendment to reject the contract if JCF determines that the contract is contrary to or fails to implement an applicable provision of the proposed legislation—failure to conform to the normal practices in the venture capital industry is not an authorized basis upon which JCF may reject the contract. Do you want to include a requirement in the substitute amendment to the effect that the contract between DOA and the investment manager must conform to normal practices in the venture capital industry? Alternatively, you may want to consider removing the “normal practices” language. The contract between the investment manager and DOA is in large part statutory and is not likely to conform to the normal practices of the venture capital industry. See for example, the repayment terms required for the contract between DOA and the investment manager. Please let me know how you would like to proceed.

Please do not hesitate to contact me with any questions.

Thank you.

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