Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL NOTE

House Bill 1469 (Delegate Frick, *et al.*)
Ways and Means

Maryland Small Business Investment Companies

This bill allows a credit against the insurance premium tax equal to 100% of qualified investments made by insurance companies in certified Maryland small business investment companies that make investments in qualified businesses. The Department of Business and Economic Development (DBED) is authorized to award a maximum of $100 million in credits and no more than $12.5 million annually beginning in calendar 2012. DBED must administer the program and adopt regulations implementing the program.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: General fund revenues may increase by $75,000 in FY 2011 due to application fees. Future years include administrative fees and penalties. General fund revenues will decrease by a total of $100 million as a result of tax credits claimed under the program. The revenue decrease will be phased in beginning in FY 2018. General fund expenditures increase by $152,100 in FY 2011 due to administrative costs at DBED. Future years reflect annualization and inflation.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	$75,000	$205,900	$215,700	$225,900	$236,600
GF Expenditure	$152,100	$205,900	$215,700	$225,900	$236,600
Net Effect	($77,100)	$0	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes a Maryland small business investment company tax credit program administered by DBED. DBED is authorized to award a total of $100 million in credits and up to $12.5 million annually beginning with calendar 2012.

An insurance company or person subject to the insurance premium tax that makes a qualified investment in a certified Maryland "small business" investment company (SBIC) is eligible for a tax credit against the insurance premium tax. The tax credit is equal to 100% of the eligible investment, subject to certain limitations. The tax credit may not be claimed until five years after the year in which the qualifying investment was made and is ratable over four years.

SBICs in which qualified investments are made are required within two and four years to invest specified minimum percentages of the qualified investment in qualified businesses. SBICs may use eligible investments to pay for specified costs including management, organization and operation costs; management fees; professional services; and the costs of insuring and financing obligations. A qualified business must meet certain requirements including: (1) has 250 employees or less and employs at least 80% of its employees in the State; (2) is not primarily engaged in retail sales; real estate development; accountant, and attorney, or physician professional services; or insurance, banking or lending businesses. SBICs may request a written opinion from DBED as to whether a business is a qualified business. However, if DBED does not provide a determination within a specified time, a business is considered a qualified business.

In addition to the restrictions on which persons may qualify for the 100% tax credit and which businesses ultimately qualify for investments made by SBICs, the program also limits the credit to investments in an SBIC which meet specified requirements and any requirement imposed by DBED.

Additional DBED responsibilities include (1) adopting regulations necessary to administer the bill and provide for the transfer or assignment of insurance premium tax credits; (2) establish SBIC application procedures and certify SBICs; (3) conduct annual reviews to ensure SBIC program compliance including the review of SBIC financial statements; (4) request, receive, and process payment of nonrefundable application and annual fees; (5) provide for decertification of eligible status and imposition of administrative fees for violations; and (6) report to the Governor and the General Assembly on the status of the program.

Current Law/Background: No exact tax credit of this type exists, but the State provides several tax credits that reduce the after tax cost of investments, whether made by or in Maryland businesses. These tax credits include:

- the Biotechnology Investment Tax Credit established by Chapter 99 of 2005, which allows a tax credit of up to 50% of the amount contributed to a qualified Maryland biotechnology company; and

- the One Maryland Economic Development, Business that Create New Jobs, and Enterprise Zone Tax Credits; which provide tax credits for businesses that make specified capital investments.

In addition, DBED administers several business financing programs including the Community Development Block Grant Program; Maryland Economic Adjustment Fund; Maryland Small Business Development Financing Authority; Maryland Economic Development Assistance Authority and Fund; Maryland Industrial Development Authority; and Maryland Venture Fund.

Several states, including Alabama, Colorado, Florida, Louisiana and Texas; and the District of Columbia operate similar investment tax credit programs proposed by the bill.

State Revenues: Insurance premium tax revenues totaled $275.2 million in fiscal 2009, with projected revenues totaling $266.9 million in fiscal 2010 and $273.8 million in fiscal 2011. The insurance premium tax accounts for approximately 2% of the State's general fund revenues.

Tax Credits

General fund revenues will decrease by a total of $100 million as a result of the bill. Credits can be earned beginning in calendar 2012 and claimed five years later and are ratable over a four-year period. As a result, general fund revenues will decrease by $3.1 million in fiscal 2018 and by $12.5 million annually beginning in fiscal 2021 as shown in **Exhibit 1**.

Exhibit 1
Potential Decrease in State Revenues Under Bill

FY 2018	$3.1 million	FY 2024	$12.5 million
FY 2019	6.3 million	FY 2025	12.5 million
FY 2020	9.4 million	FY 2026	9.4 million
FY 2021	12.5 million	FY 2027	6.3 million
FY 2022	12.5 million	FY 2028	3.1 million
FY 2023	12.5 million		
		Total	**$100.0 million**

Administrative Fees and Other Revenues

Revenues will increase by $7,500 for each SBIC application fee and by $5,000 for each annual certification renewal fee. Assuming 10 companies apply, revenues will increase by $75,000 in fiscal 2011. DBED is authorized to adopt a fee schedule sufficient to pay for the annual review of SBICs. As a result, it is assumed that DBED will charge additional fees necessary to administer the program. General fund revenues will increase by $205,900 in fiscal 2012 and increase by about 5% thereafter.

SBICs are required to pay the State 15% of any realized profit "above and beyond the total amount of designated capital allotted to the company." Any revenue increase resulting from this provision is expected to be minimal. Revenues may also increase as a result of administrative penalties imposed on SBICs.

State Expenditures: DBED is required to administer the program including SBIC certification, annual reviews, and reviews on potential investments. DBED is also authorized to pay for contracting services necessary to administer the program. DBED indicates the need to hire two individuals to administer the program. Although credits may be earned beginning in calendar 2012, DBED must adopt specified regulations implementing the program by January 1, 2011 and July 1, 2011. As a result, expenditures will increase by $152,100 in fiscal 2011. It includes salaries, fringe benefits, and ongoing operating expenses. Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover; and 1% annual increases in ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$151,736
Operating Expenses	315
Total FY 2011 State Expenditures	**$152,051**

Additional Information

Prior Introductions: SB 536 of 2002 was referred to interim study by the Senate Budget and Taxation Committee. Its cross file, HB 783, received a hearing in the House Ways and Means Committee; however, no further action was taken.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Maryland Insurance Administration, Comptroller's Office, Department of Legislative Services

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mpc/hlb

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