

**HB0173/295064/1**

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 173

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Walker, and Zucker” and substitute “Walker, Zucker, Lee, A. Miller, and Stukes”; in line 4, strike “Capital” and substitute “Fund”; in line 7, after “fund”, insert “qualified”; in line 8, strike “qualified”; in line 13, after “purposes;” insert “authorizing the Authority to enter into certain written agreements subject to the approval of the Department; prohibiting a member of the Authority from having a certain financial interest;”; in line 16, after “Fund” insert “and the Comptroller”; in the same line, after “procedures;” insert “requiring the Comptroller to distribute certain funds to the General Fund within a certain time;”; in line 20, strike “purchase” and substitute “purchaser”; in line 22, strike “and renewal”; strike beginning with “procedures,” in line 23 down through “fees” in line 24 and substitute “procedures”; in line 28, strike “qualified businesses in”; and in the same line, strike “within a certain period”.

On page 2, strike beginning with “requiring” in line 4 down through “Authority;” in line 5; strike beginning with “requiring” in line 9 down through “purposes;” in line 11; in line 15, after “and” insert “certain committees of the”; in line 16, strike “Capital” and substitute “Fund”; strike beginning with “prepare” in line 17 down through “report” in line 18 and substitute “disclose certain information”; in line 19, strike “an”; strike beginning with “credit” in line 19 down through the first “investments” in line 20 and substitute “credits, qualified investments,”; in line 20, strike “in certain companies making investments in”; in line 21, strike “State” and substitute “State,”; and in line 24, strike “6-529” and substitute “6-528”.

AMENDMENT NO. 2

(Over)

On page 4, strike beginning with “BY” in line 22 down through “AUTHORITY” in line 23; in line 26, strike the second “THE” and substitute “AN”; and strike beginning with “FROM” in line 26 down through “AUTHORITY” in line 27.

On page 5, strike beginning with the colon in line 22 down through “FIRM,” in line 24; in line 25, strike “RECEIVED BY” and substitute “ALLOCATED TO”; and strike beginning with the semicolon in line 25 down through “INVESTMENTS” in line 29.

On page 6, in line 5, after “THE” insert “DIRECT OR INDIRECT”; in line 6, strike “BY A VENTURE FIRM, OR DIRECTLY OR INDIRECTLY”; in line 7, strike the comma; strike in their entirety lines 14 through 20, inclusive, and substitute:

**“(2) A QUALIFIED INVESTMENT INCLUDES THE DIRECT OR INDIRECT INVESTMENT OF CASH BY A VENTURE FIRM BASED ON THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE.”;**

and in line 24, strike “6-517” and substitute “6-518”.

AMENDMENT NO. 3

On page 7, strike in their entirety lines 4 through 15, inclusive, and substitute:

**“(A) THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:**

**(1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE;**

**(2) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE; AND**

**(3) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE.**

**(B) (1) OF THE SEVEN MEMBERS APPOINTED BY THE GOVERNOR:**

**(I) 1. AT LEAST FOUR SHALL HAVE EXPERIENCE IN WORKING WITH COMPANIES THAT HAVE RAISED INVESTMENT CAPITAL FOR SEED-STAGE TO VENTURE-STAGE COMPANIES OR IN PROVIDING PROFESSIONAL SERVICES TO THE VENTURE CAPITAL INDUSTRY; AND**

**2. ONE OF THE FOUR MEMBERS SELECTED UNDER THIS SUBPARAGRAPH SHALL HAVE EXPERIENCE IN HIGHER EDUCATION RESEARCH AND DEVELOPMENT AND TECHNOLOGY TRANSFER PROJECTS;**

**(II) AT LEAST ONE SHALL HAVE EXPERIENCE AS A SMALL BUSINESS OWNER; AND**

**(III) AT LEAST ONE SHALL HAVE EXPERIENCE AS A BUSINESS EXECUTIVE THAT HAS RAISED VENTURE CAPITAL INVESTMENTS.**

**(2) THE GOVERNOR SHALL CONSIDER THE GEOGRAPHIC DIVERSITY OF THE STATE WHEN APPOINTING MEMBERS.**

**(C) THE MEMBERS APPOINTED BY THE PRESIDENT AND THE SPEAKER:**

**(1) MAY NOT BE ELECTED OFFICIALS; AND**

**(2) SHALL HAVE EXPERIENCE AND EXPERTISE IN VENTURE CAPITAL INVESTMENTS.**

**(D) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.”;**

(Over)

in line 16, strike “(B)” and substitute “(E)”; strike beginning with “THE” in line 22 down through “CAUSE” in line 23 and substitute “A MEMBER APPOINTED BY THE GOVERNOR MAY BE REMOVED BY THE GOVERNOR WITH OR WITHOUT CAUSE”; and after line 25, insert:

“(F) A MEMBER OF THE AUTHORITY MAY NOT HAVE ANY FINANCIAL INTEREST IN A PURCHASER, QUALIFIED BUSINESS, OR VENTURE FIRM.”.

On page 8, in line 4, strike “A MAJORITY OF THE MEMBERS THEN SERVING IS” and substitute “FIVE MEMBERS OF THE AUTHORITY ARE”.

AMENDMENT NO. 4

On page 8, in line 15, after “ADVICE” insert “TO”; in the same line, strike “COUNSEL TO” and substitute “CONSULT WITH”; in lines 23 and 24, strike “IN QUALIFIED BUSINESSES”; line 27, strike “50%”, and substitute “67%”; and in line 28, strike “IN QUALIFIED BUSINESSES” and substitute “BASED ON THE CRITERIA SET FORTH IN THIS SUBTITLE”.

On page 9, in line 1, strike “50%” and substitute “33%”; in line 4, after “FUND”, insert “UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE”; in line 7, after “AUTHORITY” insert “UNDER TITLE 5, SUBTITLE 5 OF THIS ARTICLE”; in line 24, after “ON” insert “THE”; in the same line, after “DATES” insert “SPECIFIED IN § 6-513(A) OF THIS SUBTITLE”; and strike beginning with the second “THE” in line 24 down through “SPECIFIES” in line 25.

On page 10, in line 8, strike “DECEMBER 1, 2011” and substitute “FEBRUARY 1, 2012”; in line 10, strike “FEBRUARY” and substitute “MARCH”; in line 15, strike “\$142,000,000”, and substitute “\$100,000,000”; and in line 19, strike “JANUARY” and substitute “APRIL”.

On page 12, in line 5, after “(6)” insert “(1)”; after line 8, insert:

**“(II) THE DEPARTMENT SHALL DISCLOSE ANY PURCHASE OF INSURANCE OR OTHER SIMILAR FINANCIAL ARRANGEMENT UNDER THIS PARAGRAPH IN THE ANNUAL REPORT REQUIRED UNDER § 6-529 OF THIS SUBTITLE.”;**

strike in their entirety lines 9 and 10; in line 23, after “BE” insert “;

**(1)”;**

and in line 24, after “USED” insert “;**AND**

**(II) USED BY THE PURCHASER WITHOUT RESTRICTION DURING ANY CALENDAR YEAR AFTER 2019”.**

**AMENDMENT NO. 5**

On page 13, strike in their entirety lines 12 through 15, inclusive, and substitute:

**“PART IV. VENTURE FIRMS AND INVESTMENTS.**

**6-517.**

**(A) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, THE AUTHORITY SHALL OBTAIN THE SERVICES OF AN INDEPENDENT THIRD PARTY TO:**

**(1) ESTABLISH APPLICATION PROCEDURES FOR AN ENTITY TO BE CERTIFIED AS A VENTURE FIRM; AND**

(Over)

(2) REVIEW AND EVALUATE APPLICATIONS FOR VENTURE FIRM CERTIFICATION UNDER THIS SECTION.

(B) THE INDEPENDENT THIRD PARTY SELECTED BY THE AUTHORITY SHALL:

(1) REVIEW AND EVALUATE THE APPLICATION, ORGANIZATIONAL DOCUMENTS, AND BUSINESS HISTORY OF EACH APPLICANT;

(2) EVALUATE WHETHER THE APPLICANT IS LIKELY TO ACHIEVE THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE; AND

(3) RECOMMEND TO THE AUTHORITY WHICH VENTURE FIRMS SHOULD RECEIVE ALLOCATIONS OF DESIGNATED CAPITAL UNDER THE PROGRAM.

(C) (1) ON RECEIVING THE RECOMMENDATIONS OF THE INDEPENDENT THIRD PARTY SELECTED UNDER SUBSECTION (A) OF THIS SECTION AND SUBJECT TO § 6-517 OF THIS SUBTITLE, THE AUTHORITY SHALL SELECT VENTURE FIRMS TO RECEIVE ALLOCATIONS OF DESIGNATED CAPITAL THAT ARE CONSISTENT WITH THE INVESTMENT CRITERIA SET FORTH IN THIS SUBTITLE.

(2) THE AUTHORITY SHALL ENSURE THAT THE VENTURE FIRMS RECEIVING DESIGNATED CAPITAL FOR INVESTMENT UNDER THIS SUBTITLE MAKE INVESTMENTS IN THE STATE THAT EQUAL OR EXCEED THE AMOUNT OF DESIGNATED CAPITAL RECEIVED UNDER THIS SUBTITLE.

(3) SUBJECT TO THE APPROVAL OF THE DEPARTMENT, THE AUTHORITY MAY ENTER INTO WRITTEN AGREEMENTS, INCLUDING PARTNERSHIP AGREEMENTS AND SIDE AGREEMENTS, THAT ARE NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

**6-518.**

(A) IN SELECTING APPLICANTS FOR VENTURE FIRM CERTIFICATION, THE AUTHORITY SHALL CONSIDER:

(1) THE MANAGEMENT STRUCTURE OF THE APPLICANT, INCLUDING:

(I) THE INVESTMENT EXPERIENCE OF THE PRINCIPALS;

(II) THE APPLICANT'S REPUTATION IN THE VENTURE FIRM INDUSTRY AND THE APPLICANT'S ABILITY TO ATTRACT CO-INVESTMENT CAPITAL AND SYNDICATE INVESTMENTS IN QUALIFIED BUSINESSES IN THE STATE;

(III) THE KNOWLEDGE, EXPERIENCE, AND CAPABILITIES OF THE APPLICANT IN SUBJECT AREAS RELEVANT TO VENTURE-STAGE BUSINESSES IN THE STATE; AND

(IV) THE TENURE AND TURNOVER HISTORY OF PRINCIPALS AND SENIOR INVESTMENT PROFESSIONALS OF THE APPLICANT;

(2) THE APPLICANT'S INVESTMENT STRATEGY, INCLUDING:

(Over)

(I) THE APPLICANT'S TRACK RECORD OF INVESTING IN VENTURE-STAGE BUSINESSES;

(II) THE APPLICANT'S HISTORY OF ATTRACTING CO-INVESTMENT CAPITAL AND SYNDICATE INVESTMENTS;

(III) THE SOUNDNESS OF THE APPLICANT'S INVESTMENT STRATEGY AND THE COMPATIBILITY OF THAT STRATEGY WITH BUSINESS OPPORTUNITIES IN THE STATE; AND

(IV) THE APPLICANT'S HISTORY OF JOB CREATION THROUGH INVESTMENT;

(3) THE APPLICANT'S COMMITMENT TO MAKING INVESTMENTS, THAT TO THE FULLEST EXTENT POSSIBLE:

(I) CREATE EMPLOYMENT OPPORTUNITIES IN THE STATE;

(II) LEAD TO THE GROWTH OF THE STATE ECONOMY AND QUALIFIED BUSINESSES IN THE STATE;

(III) COMPLEMENT THE RESEARCH AND DEVELOPMENT PROJECTS OF STATE ACADEMIC INSTITUTIONS; AND

(IV) FOSTER THE DEVELOPMENT OF TECHNOLOGIES AND INDUSTRIES THAT PRESENT OPPORTUNITIES FOR THE GROWTH OF QUALIFIED BUSINESSES IN THE STATE; AND

(4) THE APPLICANT'S COMMITMENT TO THE STATE INCLUDING:

(I) THE APPLICANT’S PRESENCE IN THE STATE THROUGH PERMANENT LOCAL OFFICES OR AFFILIATION WITH LOCAL INVESTMENT FIRMS;

(II) THE LOCAL PRESENCE OF SENIOR INVESTMENT PROFESSIONALS;

(III) THE APPLICANT’S HISTORY OF INVESTING IN VENTURE-STAGE BUSINESSES IN THE STATE;

(IV) THE APPLICANT’S ABILITY TO IDENTIFY INVESTMENT OPPORTUNITIES THROUGH WORKING RELATIONSHIPS WITH STATE RESEARCH AND DEVELOPMENT INSTITUTIONS AND STATE-BASED BUSINESSES;

(V) THE APPLICANT’S RELATIONSHIP WITH OTHER VENTURE FIRMS IN THE REGION;

(VI) THE APPLICANT’S HISTORY OF INVESTING IN AREAS RELEVANT TO VENTURE-STAGE BUSINESSES IN THE STATE; AND

(VII) THE APPLICANT’S COMMITMENT TO INVESTING A SIMILAR OR GREATER AMOUNT OF DESIGNATED CAPITAL RECEIVED UNDER THIS SUBTITLE IN STATE-BASED VENTURES AND QUALIFIED BUSINESSES.”.

AMENDMENT NO. 6

On page 13, in line 16, after “APPLICATION” insert “WITH THE DEPARTMENT”; strike beginning with “DEPARTMENT,” in line 17 down through “\$7,500” in line 18 and substitute “DEPARTMENT”; strike beginning with “AN” in line 19 down through “ACCOUNTANT” in line 22 and substitute “THE APPLICANT’S MOST RECENT FINANCIAL STATEMENTS”; after line 22, insert:

(Over)

**“(3) THE DEPARTMENT SHALL BEGIN ACCEPTING APPLICATIONS FOR CERTIFICATION ON OR BEFORE JANUARY 1, 2012.”**

**“(4) AN APPLICATION FOR CERTIFICATION MAY NOT BE ACCEPTED AFTER MAY 1, 2012.”;**

in line 25, strike “CAPITALIZATION” and substitute “CAPITALIZATION, NET ASSETS, OR WRITTEN COMMITMENTS”; in line 26, after “EQUIVALENTS;” insert “AND”; and in line 30, strike “; AND” and substitute a period.

On page 14, strike in their entirety lines 1 through 16, inclusive; in line 17, strike “(F)” and substitute “(D)”; in the same line, strike “45” and substitute “90”; in line 18, after “SHALL” insert “EITHER”; strike beginning with “REFUSAL,” in line 21 down through “GROUNDS” in line 22 and substitute “REFUSAL”; and strike in their entirety lines 23 through 31, inclusive.

On page 15, in line 1, strike “6-518.” and substitute “6-519.”; strike in their entirety lines 2 through 16, inclusive; in line 17, strike “(C)” and substitute “(A)”; in line 27, strike “A” and substitute “WITH RESPECT TO AN INVESTMENT BY THE ENTERPRISE FUND OR THE FINANCING AUTHORITY, A”; and strike in their entirety lines 31 through 35, inclusive.

On page 16, strike in their entirety lines 1 through 15, inclusive; in line 16, strike “(G)” and substitute “(B)”; in the same line, strike the colon; in line 17, strike “(1)”; strike beginning with “IN” in line 18 down through “BUSINESS” in line 19; and strike beginning with the semicolon in line 19 down through “DEPARTMENT” in line 22.

On pages 16 and 17, strike in their entirety the lines beginning with line 23 on page 16 through line 5 on page 17, inclusive.

On page 17, strike in their entirety lines 19 through 27, inclusive; and in line 28, strike “(B)” and substitute “(A)”.

On page 18, strike beginning with “THAT” in line 3 down through “HAS” in line 4; in lines 5 and 10, in each instance, strike “QUALIFIED”; in line 8, strike “BUSINESS” and substitute “INVESTMENT”; in line 9, strike “AN INVESTMENT” and substitute “A POSITION”; in line 19, strike “AN INTEREST IN A QUALIFIED BUSINESS” and substitute “A QUALIFIED INVESTMENT”; and strike in their entirety lines 23 through 31, inclusive.

AMENDMENT NO. 7

On page 19, strike beginning with “HAVE” in line 4 down through “ALL” in line 5 and substitute “PAY TO THE COMPTROLLER THE TOTAL AMOUNT”; in line 10, strike “DEPARTMENT” and substitute “COMPTROLLER”; strike beginning with “ALL” in line 12 down through “FUND” in line 13 and substitute “THE COMPTROLLER SHALL DISTRIBUTE ALL PAYMENTS RECEIVED UNDER THIS SECTION TO THE GENERAL FUND WITHIN 30 DAYS OF RECEIPT”; and strike in their entirety lines 14 through 22, inclusive.

AMENDMENT NO. 8

On page 21, strike beginning with “TO” in line 4 down through “ASSEMBLY” in line 5 and substitute “THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE WAYS AND MEANS COMMITTEE”; and strike in their entirety lines 7 through 18, inclusive, and substitute:

“(1) WITH RESPECT TO EACH PURCHASER OF PREMIUM TAX CREDITS UNDER THE PROGRAM:

(I) THE NAME OF THE PURCHASER OF PREMIUM TAX CREDITS;

(II) THE AMOUNT OF PREMIUM TAX CREDITS ALLOCATED TO THE PURCHASER;

(III) THE AMOUNT OF DESIGNATED CAPITAL THE PURCHASER CONTRIBUTED FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE; AND

(IV) THE AMOUNT OF ANY TAX CREDITS THAT HAVE BEEN TRANSFERRED UNDER § 6-514 OF THIS SUBTITLE;

(2) WITH RESPECT TO EACH VENTURE FIRM THAT HAS RECEIVED AN ALLOCATION OF DESIGNATED CAPITAL:

(I) THE NAME AND ADDRESS OF THE VENTURE FIRM;

(II) THE NAMES OF THE INDIVIDUALS MAKING QUALIFIED INVESTMENTS UNDER THE PROGRAM;

(III) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED DURING THE PREVIOUS YEAR;

(IV) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL RECEIVED;

(V) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PREVIOUS CALENDAR YEAR;

(VI) THE NAMES OF QUALIFIED BUSINESSES RECEIVING DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT;

(VII) THE ANNUAL PERFORMANCE OF EACH QUALIFIED INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS CALCULATED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;  
AND

(VIII) THE AMOUNT OF ANY QUALIFIED DISTRIBUTION OR NONQUALIFIED DISTRIBUTION TAKEN DURING THE PRIOR YEAR, INCLUDING ANY MANAGEMENT FEE;

(3) WITH RESPECT TO THE ENTERPRISE FUND:

(I) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED DURING THE PREVIOUS YEAR;

(II) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL RECEIVED;

(III) THE AMOUNT OF DESIGNATED CAPITAL REMAINING UNINVESTED AT THE END OF THE PRECEDING CALENDAR YEAR;

(IV) THE NAMES OF QUALIFIED BUSINESSES RECEIVING DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT;  
AND

(V) THE ANNUAL PERFORMANCE OF EACH QUALIFIED INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS

(Over)

CALCULATED UNDER FINANCIAL ACCOUNTING STANDARD 157 OF THE  
FINANCIAL ACCOUNTING STANDARDS BOARD;

(4) WITH RESPECT TO THE FINANCING AUTHORITY:

(I) THE AMOUNT OF DESIGNATED CAPITAL RECEIVED  
DURING THE PREVIOUS YEAR AND THE AMOUNT ALLOCATED TO THE EQUITY  
PARTICIPATION INVESTMENT PROGRAM;

(II) THE CUMULATIVE AMOUNT OF DESIGNATED CAPITAL  
RECEIVED;

(III) THE AMOUNT OF DESIGNATED CAPITAL REMAINING  
UNINVESTED AT THE END OF THE PRECEDING CALENDAR YEAR;

(IV) THE NAMES OF QUALIFIED BUSINESSES RECEIVING  
DESIGNATED CAPITAL AND THE AMOUNT OF EACH QUALIFIED INVESTMENT;  
AND

(V) THE ANNUAL PERFORMANCE OF EACH QUALIFIED  
INVESTMENT INCLUDING THE INVESTMENT'S FAIR MARKET VALUE AS  
CALCULATED UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND";

in line 19, strike "(6)" and substitute "(5)"; in line 27, strike "; AND" and substitute a period; and strike in their entirety lines 28 and 29.

AMENDMENT NO. 9

On page 3, in line 18, strike “INVESTMENT”; and in line 20, strike “CAPITAL” and substitute “FUND”.

On page 6, in line 11, strike “AND” and substitute “OR”.

On page 6 in line 27 and on page 7 in line 1, in each instance, strike “CAPITAL” and substitute “FUND”.

On page 19, in lines 23, 24, and 26, strike “6-524”, “6-525”, and “6-526”, respectively, and substitute “6-523”, “6-524”, and “6-525”, respectively.

On page 20, in lines 14, 29, and 32, strike “6-527”, “6-528”, and “6-529”, respectively, and substitute “6-526”, “6-527”, and “6-528”, respectively.

On page 22, in line 6, strike “Capital” and substitute “Fund”.