

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 955
Ways and Means

Maryland Technology Development Corporation – Alteration of Purpose

This bill alters the purposes of the Maryland Technology Development Corporation (TEDCO) to include investing in technology-based early-stage and start-up businesses that either are located in the State or conduct a substantial part of business activities in the State. TEDCO is authorized to invest in and make grants to such businesses as part of its general powers. The bill also alters the definition of “qualified business” in the InvestMaryland program, for the purposes of initial and follow-on investments made under the program, to be a technology-based early-stage or start-up business that is located in the State or conducts a substantial part of business activities in the State.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations, as discussed below.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: TEDCO may make grants to or provide equity investment financing for technology-based businesses, which are not defined. The purposes of TEDCO are to:

- assist in transferring to the private sector the results and products of scientific research and development conducted by colleges and universities;
- assist in commercializing those results and products;

- assist in commercializing technology developed in the private sector;
- foster the commercialization of research and development conducted by colleges, universities, and the private sector to create and sustain businesses throughout all regions of the State; and
- generally assist early-stage and start-up businesses in the State.

Enterprise Fund

TEDCO may use the Enterprise Fund to:

- make a grant or loan, at the rate of interest set by TEDCO;
- provide equity investment financing for a business enterprise;
- guarantee a loan, equity, investment, or other private financing to expand the capital resources of a business enterprise;
- purchase advisory services and technical assistance to better support economic development;
- pay TEDCO's obligations to a venture firm under the InvestMaryland program; and
- pay TEDCO's administrative, legal, and actuarial expenses.

“Business enterprise” is not defined.

InvestMaryland Program

Under the InvestMaryland program, a “qualified business” means a business that, at the time of the first investment in the business under the program:

- has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving an investment under the program;
- has agreed to use the qualified investment primarily to support business operations in the State or, in the case of a start-up company, establish and support business operations in the State;
- has up to 250 employees; and
- is not primarily engaged in specified industries or activities.

A business certified as an eligible business retains eligibility for additional investments under the program if it no longer meets eligibility requirements. These follow-on investments are qualified investments under the program unless the business no longer retains its principal business operations in the State. Qualified investments may be made

by TEDCO, private venture firms, or the Maryland Small Business Development Financing Authority (MSBDFA) under the program.

Background: TEDCO is an independent entity established by the Maryland General Assembly in 1998 to facilitate the creation of technology companies and encourage collaboration between these emerging businesses and federal and State research laboratories. TEDCO also aims to promote new research activity and investments that lead to business development in Maryland.

Enterprise Fund (Maryland Venture Fund) and the InvestMaryland Program

In practice, the Enterprise Fund in statute is known as the Maryland Venture Fund (MVF) to the public. Chapter 141 of 2015 transferred the operation of MVF and the biotechnology grant program from the Department of Commerce.

MVF provides capital through equity purchases for start-up companies that are developing innovative technologies. Beginning in fiscal 2013, MVF also became the means for the implementation of the InvestMaryland program, which is a State-supported venture capital program funded through a tax credit auction. Some of these funds are invested by TEDCO, and some are invested by private venture funds on behalf of the State.

Except for the Enterprise Fund/MVF, which is a special fund, State support for TEDCO's programs is typically in the form of general funds. The Governor's proposed fiscal 2020 budget includes \$8.2 million in special funds for the Enterprise Fund/MVF: \$1.7 million for administrative costs and \$6.5 million for programmatic expenses.

Audit of the Maryland Technology Development Corporation

The February 2019 fiscal compliance audit of TEDCO conducted by the Office of Legislative Audits (OLA) contains three findings related to TEDCO's management of the Enterprise Fund/MVF, the Maryland Venture Fund Authority (MVFA), and the InvestMaryland program, including private venture funds that received money under the program. Specifically, OLA found:

- TEDCO had not adopted regulations for direct equity investments through MVF, as required by State law. Additionally, certain MVF investments tested by OLA were to companies whose principal place of business was not in Maryland at the time of the investment or who did not remain in Maryland after the investment, as required.
- TEDCO created a three-member advisory committee related to MVF to provide investment advice without establishing adequate policies and procedures regarding the committee's membership to prevent potential conflicts of interest; the advisory

committee included members associated with certain venture firms that had received funding from MVF.

- TEDCO's monitoring of third-party venture firms receiving funding through MVF's InvestMaryland program was not sufficient. MVFA, which by statute was to provide such oversight, had been inactive for several years – with all of its members' appointments having expired.

The [audit](#) is available on OLA's website.

State Fiscal Effect: The bill generally conforms to recent TEDCO practices and does not directly alter funding available for investments. The Department of Commerce advises that future investments provided under the InvestMaryland program by MSB DFA are likewise unaffected.

Additional Information

Prior Introductions: None.

Cross File: SB 593 (Senator Serafini) - Finance.

Information Source(s): Maryland Technology Development Corporation; Department of Commerce; Department of Legislative Services

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sb/vlg

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