SUBJECT: Extending certified capital company program and premium credits

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Smithee, T. Smith, Taylor, Eiland, Hancock, Thompson, Vo, Woolley

0 nays

1 absent — Martinez

WITNESSES: For — Kent Kalar, Sensortran; Michael A. Korengold, Enhanced Capital Partners; (*Registered, but did not testify:* Craig Casselberry, Texas Coalition for Capital; Jeffrey Clark, American Electronics Association; Damon Rawie, Advantage Capital Partners; Jay Thompson, Prudential Insurance Co.)

Against — None

On — Byron L. Beasley, Texas Treasury Safekeeping Trust Co. (On behalf to the Texas Comptroller); (*Registered, but did not testify:* Kevin Brady, Texas Department of Insurance)

BACKGROUND: Certified capital companies (CAPCOs) are venture capital funds registered with the state that invest solely in certain small businesses and start-up operations. By investing in CAPCOs, insurance companies receive tax credits against their state premium tax liabilities.

CAPCO managers make investment decisions on behalf of investors. While the state does not direct investment activity, CAPCOs are subject to state oversight. They must comply with an annual audit and must file financial statements and reports periodically.

The Texas CAPCO program was created in 2001 to support emerging businesses and those based in "strategic investment areas" — counties with higher-than-average unemployment rates or businesses in urban enterprise or defense economic readjustment zones. The Comptroller's Office administers the program by establishing application procedures, adopting rules for certification of CAPCOs, and imposing penalties for those that fail to meet program requirements.

Businesses that receive CAPCO financing must be headquartered in Texas and agree to support business operations in the state. Start-up companies can have no more than 100 employees, at least 80 percent of whom are in Texas. These businesses must be engaged primarily in manufacturing, processing, or assembling products, conducting research and development, or providing services, and not primarily engaged in retail sales, real estate development, insurance, banking, or professional services. At least 50 percent of CAPCO investments must be in early-stage businesses and at least 30 percent must be in businesses located in "strategic investment areas."

A certified investor, such as an insurance company, that makes an investment in a CAPCO earns, in the year of investment, a vested credit against state premium tax liability of 100 percent of the investment of certified capital. Beginning in 2009, a certified investor can take up to 25 percent of the premium tax credit against any tax year beginning with the 2008 tax year.

The total amount of certified capital for which premium tax credits may be allowed is $200 million, with a limit of $50 million in premium tax credits per year. If the total premium tax credits claimed by investors exceed this amount, the $50 million will be distributed to certified investors on a pro rata basis. The maximum amount of premium tax credit that any one investor may claim is $10 million per year or 15 percent of the maximum amount of available tax credits.

DIGEST:

HB 1741 would renew the CAPCO program by establishing a second phase (Program Two) for allocation and investment of certified capital made on or after January 1, 2007. Allocation and investment of certified capital before January 1, 2007, would be identified as Program One.

Both programs would be subject to existing CAPCO regulations, except that the requirement that CAPCOs direct 30 percent of investments to strategic investment areas would be expanded to include low-income communities, as defined by Internal Revenue Code, sec. 45D(e).

Program Two certified investors would be able to claim premium tax credits in 2013 for premiums earned in the 2012 tax year. The limit on premium tax credits for Program Two would be $50 million per year up to a limit of $200 million for all years. The maximum amount of premium tax credit that any one investor could claim would be $10 million per year or 15 percent of the maximum amount of available tax credits.

The bill would take effect September 1, 2007.

SUPPORTERS SAY:

HB 1741 would renew a successful program that has enhanced economic development efforts throughout the state. The program fills an important need by focusing on early-stage businesses and those in areas of the state in which traditional investment banks are less likely to operate. These are investments that otherwise would not be made.

Under the current CAPCO program, 10 certified CAPCOs have provided financing for 32 companies, most in rural areas. By adding low-income communities to the areas in which CAPCOs must invest, the bill would also help bring jobs and opportunities to the state's low-income urban areas. These new businesses will provide jobs and tax revenue for the state that is likely to exceed the lost state revenue in future premium tax credits.

OPPONENTS SAY:

This bill would continue a policy of allowing insurers and other investors to claim premium tax credits in future years for current CAPCO investments. This could reduce the amount of available revenue in future budget cycles. If the state wants to support economic development, it should do so as part of the current budget process instead of passing the cost of this program on to future legislatures.

NOTES:

According to the fiscal note, HB 1741 would have no fiscal implications for the state for fiscal 2008 through 2012. Under Program Two, qualified investors would be able to claim eligible premium tax credits in 2013 for the 2012 tax year.