HOUSE
RESEARCH
ORGANIZATION bill analysis 5/24/2011

SB 1744
Eltife
(Murphy)

SUBJECT: Voluntary decertification of certified capital companies

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 6 ayes — J. Davis, Vo, R. Anderson, Miles, Murphy, Sheets

0 nays

1 absent — Reynolds

SENATE VOTE: On final passage, April 21 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 3374:*)
For — (*Registered, but did not testify:* Craig Casselberry, Texas Coalition for Capital; Jeffrey Clark, Technology Association of America (Tech America); Jeffrey Craver, Advantage Capital Partners; Scott Crist, Texas Ventures; Ron Hinkle, Advantage Capital Partners, Stonehenge Growth Capital; Mike Meroney, Accent Capital; Steven Moya, General LED; Gingee Prince, Enhanced Capital Partners; Damon Rawie, Advantage Capital Partners; Gary Valdez, Focus Strategies Investment Banking)

Against — None

On — Byron Beasley, Texas Treasury Safekeeping Trust Co.; (*Registered, but did not testify:* Paul Ballard, Texas Treasury Safekeeping Trust Co.)

BACKGROUND: Insurance Code, ch. 228 allows insurance companies to invest in private government-sponsored capital-venture companies. These certified capital companies (CAPCOs) invest in and provide capital to Texas-based companies. The insurance companies receive tax credits on their state insurance taxes equal to their investment in CAPCOs. They also receive interest on their investments and a chance to participate in the profits of a CAPCO. The comptroller administers the program through the Texas Treasury Safekeeping Trust Company. Since 2005, the Legislature has authorized about $400 million in tax credits for the program.

DIGEST: SB 1744 would allow the comptroller to decertify a certified capital company upon request by the company if the comptroller found that the company had made qualified investments in an amount equal to 100 percent of the company's certified capital.

Voluntary decertification would not authorize the recapture and forfeiture of premium tax credits.

The comptroller would have to give notice of the certification to any appropriate state agencies.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

SUPPORTERS SAY: SB 1744 would allow CAPCOs to voluntarily decertify after successful completion of the program and satisfaction of all investment obligations. Decertification would mean leaving the program and the responsibilities that accompany it. Current law does not provide companies with a method for doing so. These companies continue to pay fees, undergo audits, and file reports with the comptroller long after their investments have been made. As a business decision, some CAPCOs would like to move onto other opportunities and no longer desire to continue to participate in the program.

CAPCOs should not be required to file reports after fulfilling their part of the bargain. Once they leave the field, they should not be required to further monitor it.

OPPONENTS SAY: SB 1744 would further weaken the state's oversight over the very complex CAPCO program. Too many of the investments CAPCOs make fail to meet the minimum number of jobs created as a condition of investment. By allowing voluntary decertification, CAPCOs no longer would be required to self-report their job creation and retention rates, weakening the state's ability to monitor the effectiveness of the program.

NOTES: The identical companion bill, HB 3374 by Murphy, was reported favorably, as substituted, by the Economic and Small Business Development Committee on April 12.