SUBJECT: Tax credits in exchange for investments in certain communities

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 9 ayes — J. Davis, Vo, Bell, Y. Davis, Isaac, Murphy, Perez, E. Rodriguez, Workman

0 nays

WITNESSES: For — Kathy Barber, NFIB Texas; Craig Casselberry, Texas Coalition for Capital; Ben Dupuy, Stonehenge Capital Co.; Carlton Schwab, Texas Economic Development Council; (*Registered, but did not testify*: Danielle Delgadillo, Advantage Capital Partners; Jon Fisher, Associated Builders and Contractors of Texas; Jim Grace, Centerpoint Energy; Bill Hammond, Texas Association of Business; Tom Kowalski, Texas Healthcare and Bioscience Institute; Donald Lee, Texas Conference of Urban Counties; Stephanie Simpson, Texas Association of Manufacturers)

Against — Dick Lavine, Center for Public Policy Priorities

On — Mark Foster

DIGEST: CSHB 2061 would amend the Insurance Code to create a New Markets Program operated by the state.

Program specifics. A community development entity created to invest in low-income communities would apply to the program to make an investment. Investors, typically insurance companies, would earn credits that could be used against their state premium tax liability related to insurance premiums, such as property and casualty insurance premiums.

The comptroller would have to adopt rules to assist with its administering the program. In certifying proposed investments, the comptroller would be required to limit the total investments to $750 million.

The bill would use the same definitions found in the federal New Markets Program. The federal definition for a qualified active low-income community business would be used, but this definition would not include real estate companies. The federal definition for a qualified community development entity would also be used.

In certain situations, the comptroller would have to recapture a tax credit given to a qualified investor, such as if the community development entity failed to utilize the full investment for a low-income community investment within one year. Failure of the community development entity to meet program requirements, such as making the qualified investment within one year, would also result in loss of the $500,000 deposit made with the comptroller under the program.

The amount of a tax credit claimed by a qualified investor could not exceed the total state tax liability of the investor for the same year. Tax credits claimed under the program could not be refunded or sold to another party.

Reporting. Community development entities would have to submit annual reports to the comptroller demonstrating compliance that the entity maintained the full investment amount authorized under the program in low-income community investments.

Every biennium, the comptroller would have to report to the Legislature information on the amounts of qualified investments, the performance of community development entities, as well as information on the resulting jobs and wages. This report would be filed with the governor, lieutenant governor, and speaker of the House on even-numbered years.

The bill would take effect September 1, 2013. The comptroller would be required to begin accepting applications for qualified investments no later than October 2, 2013.

SUPPORTERS SAY:

In 2000, the U.S. Congress created the New Markets Program to spur new and increased investments into low-income communities. Early growth-stage capital has long been an obstacle for small businesses, especially in low-income areas. The program is designed to attract investments by providing tax credits in exchange for entities making investments in special financial institutions called community development entities.

By creating a New Markets Program at the state level, CSHB 2061 would encourage private-sector capital investment in economically distressed rural and emerging urban markets throughout Texas by granting investors a tax credit on the state insurance premium taxes beginning in the third year after investment. These funds would be invested by private sector firms in these specific markets.

While the bill would result in a significant fiscal impact in the future, it would result in significant benefits as well. It is estimated the program in Texas would create 14,400 jobs and attract $1.2 billion in investment, which would result in $448 million of new state revenue. For every one dollar of tax credit used, $1.40 in new state revenue would be generated.

Another important consideration is that it could help Texas attract federal dollars to support its goals of investing in low-income communities. Texas ranks 43rd in per-capita investment that qualifies for the federal New Markets Program. If a state operates a new markets program at the state level, it can draw federal dollars. Federal money generally flows to those states that have initiated their own programs.

Under the bill, the comptroller would administer the state's new markets program with up to $750 million in investments, money that could be leveraged by an additional $465 million from the federal new markets program. The corresponding tax credits would be paid out over seven years, while there would be no tax credits during the first two years.

The bill would protect the state's interest. It would provide for a seven-year credit-recapture or “clawback” provision to recoup money if a participant violated program rules. Additionally, investments would have to be made within one year or authority would revert back to the state to retain a $500,000 deposit and reallocate the investment elsewhere. If a community development entity complied with program rules, the $500,000 would ultimately be returned. The amount of tax credits that could be claimed would be capped at the investor's existing tax liability, so there would be no over-claiming. Also, unlike other state programs, tax credits would not be refundable or transferable.

The committee substitute would clarify that this would not be a perpetual program. It has a built-in sunset of seven years. Also, community development entities would have to meet annual reporting requirements. The comptroller would report to the Legislature each biennium.

Maryland's new markets program, InvestMaryland, has underperformed in terms of providing investments for small businesses. The Texas program would employ a better model resulting in $750 million being invested into Texas small businesses within one year. It should be noted, as well, that the bill would place the investment risk on private companies. The state would not be the provider of funds and would not have to bear the risk.

OPPONENTS SAY:

While the bill would temporarily authorize this tax expenditure program, there is a better way to accomplish the bill's objectives. Maryland's new markets program involves the state auctioning off premium tax credits. This more open and competitive program has resulted in an 18 percent tax discount, whereas this bill would result in a much higher discount.

Texas would only receive an indirect benefit from the program in the form of jobs. The bill should allow the state to directly participate in the investment returns under the program. Additionally, the $500,000 deposit required of investors is an unnecessary burden to potential investors, which is not found in the federal program.

The fiscal note shows no immediate impact. However, the cost to the state would eventually increase to $120 million per biennium.

NOTES:

The Legislative Budget Board fiscal note states that there would be no significant fiscal impact to the state during fiscal 2014-15. However, CSHB 2061 would result in up to $292.5 million in insurance tax premium credits taken during a five-year period beginning in fiscal 2016.