Ohio Legislative Service Commission

Bill Analysis

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H.B. 44

129th General Assembly
(As Introduced)

Reps. Goyal and Garland, Driehaus, Szollosi, Murray, Pillich, Stinziano, O'Brien, Reece, Williams, Patmon, Yuko, Lundy, Boyd, Slesnick, Phillips, Weddington, Heard

BILL SUMMARY

- Creates the Small Business Working Capital Loan Program authorizing the deposit of up to $100 million in state funds with financial institutions, subject to an agreement whereby the institutions lend money to businesses approved for such loans by selected investment firms.
- Authorizes the state to forgo interest on the deposits.
- Establishes loan eligibility criteria, including annual sales of not more than $50 million, and establishes goals for lending to minority- or women-owned businesses and EDGE businesses.
- Authorizes the Department of Development to select up to two investment firms to approve loans and otherwise administer lending under the program.
- Authorizes the Director of Development to modify the terms of the program as necessary to enable federal small business assistance funds to be used under the program.

CONTENT AND OPERATION

General description

The bill creates the Small Business Working Capital Loan Program under which the state deposits up to $100 million of state funds with lending institutions, and the lending institutions agree to loan money to businesses approved for the loans by investment firms selected for that purpose by the Department of Development.[1]

Eligibility for loans

Under the bill, any for-profit business headquartered in Ohio with total annual sales of up to $50 million is eligible to apply for a working capital loan.[2] The criteria that a business must meet before it may receive a loan under the program are to be developed by the Department of Development. The criteria must allow consideration for the economic needs of the area where the business is located, the number of jobs to be created or preserved in the state by receipt of the loan, and any other factors pertinent to the "overall economic welfare of the state" that are appropriate in determining the relative financial needs of the applicant. In addition to these criteria, the eligible business also must certify in its application that the loan will be used to create new jobs or to preserve existing jobs and employment opportunities in Ohio or to purchase tangible personal property for use in the business.[3]

Participating lending institutions

The bill permits the Treasurer of State, upon the request of the Director of Development, to deposit up to $100 million of state funds in participating lending institutions that agree to lend money under the program.[4] A financial institution qualifies as a participating lending institution if it is an eligible depository of state funds under the Uniform Depository Act and if it is authorized to make commercial loans.[5] Under the agreement, the state may forego any accrued interest on the deposits.[6] Under current law, the interest generally would be credited to the General Revenue Fund.[7]

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[1] R.C. 166.45 to 166.51. Pursuant to Am. Sub. S.B. 314 of the 129th General Assembly, the Department of Development is renamed the Development Services Agency.

[2] R.C. 166.45(B).

[3] R.C. 166.50.

[4] R.C. 166.47.

[5] R.C. 166.45(D).

[6] R.C. 166.47.

[7] R.C. 113.09.

Participating lending institutions must comply with the Uniform Depository Act, which requires, among other things, that they provide security to the state for the state's deposits and have public fund deposits of no more than 30% of their assets.[8]

The state may use federal funds received "for the purpose of providing capital assistance to small businesses." If the federal government requires the federal funds to be used in some way other than authorized under the program, the Director of Development may modify the program in order to comply with federal guidelines.[9]

Loan approval; monitoring of borrowers

Loans are to be approved by an investment firm that the Director of Development selects to be a program administrator. (The selection criteria and procedure are described below.) Upon receipt of a loan application from an eligible business, a program administrator reviews the application and determines whether the applicant meets the program criteria and falls within the maximum credit risk standards established by the Department of Development. The program administrator may approve a loan for an amount between the minimum and maximum loan amounts established by the Department.[10] A program administrator may commit its own capital to a program loan subject to terms to be established by the Department.[11]

Once a loan is approved, the program administrator is also responsible for monitoring compliance with loan-related documents and documenting how loan recipients are using working capital loan funds.[12]

Selection of program administrators

Under the bill, the Director of Development must select up to two "Ohio-based" investment firms to serve as program administrators after soliciting and evaluating proposals. In soliciting proposals, the Director of Development must publish notice of a request for proposals that includes instructions and contact information for the submission of proposals, a description of the factors to be considered in evaluating proposals, the relative importance of those factors, a description of the proposal

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[8] R.C. 135.03 and 135.18.

[9] R.C. 166.51.

[10] R.C. 166.49.

[11] R.C. 166.50(D).

[12] R.C. 166.49.

evaluation procedure, and the amount of compensation a program administrator may receive. The bill does not specify the evaluation factors or criteria.

The bill requires the Director of Development to review at least three of the proposals received and select not more than two firms to administer the program. The selection of program administrators is exempted from existing law's state competitive selection procedures for services.[13]

Goals for minority, women's, and EDGE business enterprises

The bill directs the Director of Development to establish goals for providing working capital loans under the program to eligible minority business enterprises, women's business enterprises, and EDGE business enterprises. The goals must be stated in the form of specified percentages of the total amount of state money deposited under the program.[14]

A "minority business enterprise" is a business owned and controlled by an Ohio resident that is a member of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.[15] An "EDGE business enterprise" is a business owned and controlled by an individual or individuals demonstrating social and economic disadvantage based on criteria specified by law.[16] A "women's business enterprise" is a business owned or controlled by women who are Ohio residents.[17]

Program administrator monthly reports

The bill requires program administrators to submit monthly reports to the Director of Development that include: (a) the number of loans made under the program, and the number of those that are in default, (b) the number of loans made to minority, women's, and EDGE business enterprises, (c) the progress in meeting the percentage goals for those businesses established by the Director, and (d) the number of jobs created or preserved in the state as a result of the loans.[18]

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[13] R.C. 166.48.

[14] R.C. 166.50(C).

[15] R.C. 122.71.

[16] R.C. 123.152.

[17] R.C. 150.051.

[18] R.C. 166.49(C).

HISTORY

ACTION	DATE
Introduced	01-20-11

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