



Senate Finance Committee

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BILL SUMMARY

Legislation: Senate Bill 456, P.N. 797
Sponsor: Senator Blake
Act Amended: Tax Reform Code
Topic: Innovate in PA – creates tax credit program for economic development
Date: June 19, 2013

Summary:

Senate Bill 456 amends the Tax Reform Code (Act 2 of 1971) to establish the “Innovate in PA” program which would provide for the structured auctioning of \$225 million worth of insurance premium tax credits. Auction proceeds would then be distributed to a number of economic development programs via the Ben Franklin Technology Development Authority (BFTDA), the Department of Community and Economic Development (DCED).

This act shall go into effect in 60 days.

Analysis

Senate Bill 456 will invest in the Ben Franklin Technology Authority and its regional partners; DCED; and the Partnerships for Regional Economic Performance (PREP) by raising a minimum of \$157.5 million up to and exceeding \$190 million.

Sale/Auction of Insurance Premium Tax Credits:

Beginning on October 1, 2013, DCED would be authorized to auction up to \$225 million in tax credits against an insurance company’s future premium tax liabilities to the state beginning in calendar year 2017 against insurance premium tax liability incurred for a taxable year that begins on or after January 1, 2016.

Insurance companies which are subject to PA’s insurance premium tax liability are eligible to apply to DCED to purchase tax credits. The tax credit shall not affect insurance policy rates and the tax credits would be treated as an admitted asset upon any examination of a company’s assets.

The total amount of tax credits applied against insurance premium tax liability may not exceed \$45 million per year beginning in calendar year 2017. The credit amount applied for may not exceed a company’s total insurance premium tax liability for that tax year.

If a company cannot use the entire tax credit for its given year, it may be carried over to succeeding taxable years up to December 31, 2025. A company may transfer the tax credit to another qualified

company 30 days after notifying DCED and the Insurance Department. Tax credits cannot be carried back to prior taxable years.

Hold Harmless Provision

The General Assembly shall transfer from the General Fund an amount equal to the amount of tax credits claimed by insurance companies who pay the Foreign Casualty Insurance Premium Tax and Foreign Fire Insurance Premium Tax.

Bidding Process:

DCED may sell or contract with a third party to auction the tax credits to eligible insurance companies which may begin applying to DCED on or after October 1, 2013. The application would be an irrevocable bid offer and cannot be less than 70% of the total tax credits requested, or an amount set by DCED and the third party informed by market conditions – whichever is greater. The requested amount of tax credits by any one company cannot be less than \$500,000. DCED shall provide written notice to companies indicating whether or not it has been approved for tax credits. No tax credits may be sold if the bidding process fails to yield at least \$50 million in revenue to the program.

Payment of Tax Credits by Insurance Companies:

Capital committed by a company shall be paid to DCED, which shall issue a tax credit certificate stating the total amount of credits a company may claim; capital contributed; dates for which credits may be claimed; penalties for noncompliance; and procedures for transferring credits.

Failure to make capital contribution:

Companies that fail to make a contribution of capital within the time specified by DCED shall be subject to a penalty equal to 10% of the unpaid capital amount and the penalty shall be paid to the DCED within 30 days after demand. DCED may reallocate the defaulted capital to other qualified companies. If the reallocated capital results in DCED collecting the amount equal to the defaulting capital, DCED may waive the penalty to the defaulting company. Any company failing to make the capital contribution may avoid the penalty by transferring the tax credit to another qualified company within 30 days of the default date. The transferee then must make a capital contribution within 30 days of the transfer date.

Fund Distribution:

Authorizes the Ben Franklin Technology Development Authority (BFTDA) to create the Innovate in PA Fund.

DCED may distribute the net proceeds as a result of the sale tax credits as follows:

- 70% shall be transferred by DCED to the BFTDA Innovate in PA Fund, to be further allocated:
 - 60% to the Venture Investment Program to make traditional venture investments or social impact venture investments which shall be made at the discretion of BFTDA for a performance-based portion of funds not to exceed 15% of the venture capital allocation.
 - 33.5% to the Ben Franklin Technology Partners Program
 - 5.5% to the BFTDA for technology-based economic development programs, including university-based entrepreneurial programs and new or existing programs to support seed grants and programming for early-stage tech companies.
 - 1% for BFTDA administrative support, which shall be annually rededicated to the Innovate in PA Fund if not fully expended.
- 30% shall be retained by DCED, to be further allocated:
 - 95% to the existing PREP Partners in accordance with guidelines issues by DCED
 - 4% for initiatives related to policy development, program enhancements and strategic planning efforts in the advancement of the life sciences industry in Pennsylvania.
 - 1% for administrative support

Guidelines

DCED and the BFTDA shall promulgate guidelines for this act. Beginning January 1, 2015 and January 1 of each subsequent year, DCED and the BFTDA shall submit a report on program implementation to the Governor and the majority and minority chairpersons of the House and Senate Appropriations Committees. The report shall be available on DCED's website. The report shall include the following information:

- Purchaser of tax credits
- Tax credit amounts
- Capital contribution amounts
- Amount of transferred tax credits
- Amount of funds received by recipients during the previous year
- Cumulative amount received by DCED from sale of credits
- Amount of uninvested capital
- Names and locations of businesses receiving capital from the recipients, along with the reason and amount of investment
- Number of jobs and averages wages created and retained by investment

Relevant Law

Insurance Premiums Tax:

A 2% tax on yearly gross insurance premiums is imposed on domestic and foreign insurance companies, except purely mutual beneficial associations and non-profit hospital and medical associations. A gross premium is defined as a premium, premium deposit, or assessment.

Ben Franklin Technology Development Authority:

BFTDA was created by Act 38 of 2001 and is currently funded through an appropriation from the General Fund. BFTDA is governed by a 21-member Board and manages several programs which provide a continuum of financial and technical assistance and builds PA's tech-based economic development infrastructure. Programs include:

- University Commercialization Grant Program
- Innovation Grant Program
- Keystone Innovation Zone Program
- Technology Development Grant Program
- The Ben Franklin Technology Partners
- Venture Investment Program

Venture Investment Program:

The Venture Investment Program (VIP) operates as an initiative to address the financing needs of technology-oriented businesses by increasing the amount of risk capital available to those businesses. VIP funds are available to venture capital funds in the form of loans.

Ben Franklin Technology Partners:

The Ben Franklin Technology Partners provide access to capital, business expertise, technology commercialization services and a network of resources in order to advance the development of new technologies and promote/support business innovation within PA.