

Date of Hearing: April 25, 2011

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Mike Eng, Chair
AB 901 (V. Manuel Perez) – As Introduced: February 17, 2011

SUBJECT: Capital Access Loan Program for small business.

SUMMARY: Expands the definition of financial institutions in the California Capital Access Program (CalCAP) and increases CalCAP reporting requirements. Specifically, this bill:

- 1) Adds small business financial development corporation or microenterprise development organization that meets standards established by the California Pollution Control Financing Authority (CPCFA).
- 2) Requires that when a financial institution contracts with the CPCFA to use North American Industry Classification System, in addition, the number of jobs created and the number of jobs retained.
- 3) Requires the CPCFA to include in their annual report to the Governor and Legislature the programmatic results which shall include:
 - a) All outstanding loans on the date the report is issued;
 - b) New loans issued since the report from the prior year;
 - c) Total number of businesses served;
 - d) Jobs created;
 - e) Jobs retained;
 - f) The geographic distribution of the loans; and,
 - g) The breakdown of businesses served by the industry sector.

EXISTING FEDERAL LAW enacted the Small Business Jobs Act (H.R. 5297) on Sept. 27, 2010 which creates the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capitol investment in eligible institutions in order to increase the availability of credit for small business and to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation. (15 U.S.C. Sec. 631 et seq.)

EXISTING STATE LAW

- 1) Defines the "California Capital Access Fund" as a fund created within the CPCFA to be used for purposes of the program. (Health and Safety Code, Section 44559.1.)
- 2) Defines "Financial Institution" as a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part

1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent. (Health and Safety Code, Section 44559.1)

- 3) Also, defines, "Financial Institution" as a lending institution that has executed a participation agreement with the Small Business Administration under the guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, and a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations. For loans where all or part of the fees and matching contributions are paid by an entity participating in the program pursuant to subdivision (e) of Section 44559.2, "financial institution" also includes financial lenders, as defined in Section 22009 of the Financial Code, making commercial loans, as defined in Section 22502 of the Financial Code. (Health and Safety Code, Section 44559.1)
- 4) Requires the CPCFA to annually prepare a report to the Governor and the Legislature that describes the financial condition and programmatic results of the capital access loan program for small businesses. (Health and Safety Code, Section 44559.6)
- 5) Establishes the California Small Business Financial Development Corporation Law. (Corporations Code, Sections 14000-14091)

FISCAL EFFECT: Unknown.

COMMENTS:

This measure is one of seven measures sponsored by the Assembly Committee on Jobs, Economic Development and the Economy (JEDE). AB 901 expands the definition of financial institutions to include small business financial development corporation or microenterprise development organization that meets the standard established by the CPCFA.

This measure will give small business financial development corporations and microenterprise development organizations access to the \$6 million allocated in AB 1632 (Chapter 731, Statutes of 2010). Neither of these entities will have access to funding allocated in the federal Small Business Jobs Act since this act does not apply to these entities.

According to the California Association for Micro Enterprise Opportunity (CAMEO), a microenterprise development organization is defined as a small business with 5 or fewer employees, including businesses with no employees. However, businesses with 10 or fewer employees or manufacturing firms with up to 25 employees may be defined as microenterprise for the purposes of specific services and programs. A microenterprise is a business that generally requires \$35,000 or less in start-up capital and often does not have access to the traditional commercial banking sector. CAMEO reports that 85% of all businesses in the US are micro. These very small firms generate close to 25% of all jobs in our economy.

Under California law, a small business financial development corporation is a nonprofit corporation. When this code section was enacted it was the intent of the legislature "to promote the economic development of small businesses by making available capital, general management assistance, and other resources, including loan services, personnel, and business education to small business entrepreneurs, including women and minority owned businesses, for the purpose of promoting the health, safety, and social welfare of the citizens of California, to eliminate unemployment of the economically disadvantaged of the state, and to stimulate economic development, employment, minority group, women, and disabled persons entrepreneurship." (Corporations Code, Section 14002)

AB 901 deletes the Standard Industrial Classification (SIC) and replaces it with the North American Industry Classification System (NAICS). This is a necessary change since SIC was replaced by the NAICS in 1997, but several data sets are still available with SIC-based data. Both SIC and NAICS classify establishments by their primary type of activity. NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

NAICS was developed under the auspices of the Office of Management and Budget (OMB). It was developed jointly by the U.S. Economic Classification Policy Committee (ECPC), Statistics Canada, and Mexico's Instituto Nacional de Estadística y Geografía, to allow for a high level of comparability in business statistics among the North American countries.

This measure also expands reporting requirements placed on the CPCFA. The CPCFA already is required to report to the Governor and Legislature annually regarding CalCAP but this measure provides more detailed information that needs to be required in the report.

As noted below, this measure has similarities to AB 981 which is sponsored by the California State Treasurer. Both these measures stem from the federal Small Business Jobs Act. The committee believes it is imperative that legislation enacted compliments the federal act and provides California the ability to obtain and use the federal and state funds efficiently.

The California Association for Local Economic Development would like to see the financial institution definition expanded even further by including local revolving fund organizations. This measure is double-referred to the JEDE committee where they will consider this amendment.

RELATED LEGISLATION

AB 981 (Hueso) (2011 Legislative Session) Makes various changes to the California Capitol Access Loan Program with the intention of making it easier to implement the Federal Small Business Jobs Act. To be heard in Assembly Banking and Finance Committee on April 25, 2010.

PREVIOUS LEGISLATION

AB 1632 (Blumenfeld) (Chapter 731, Statutes of 2010) transferred \$32.4 million from the General Fund to support four small-business and jobs programs that exist in current law. More importantly, this bill appropriated \$6 million to triple the size of CalCAP and provide statutory

flexibility to access federal funding in the Small Business Jobs Act. According to the State Treasurer's office, who administers this program, this appropriation potentially leverages over \$135 million in loans, serving 1,000 businesses and creating or retaining 3, 200 jobs.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Local Economic Development (CALED)
CDC Small Business Finance (CDCSBF)

Opposition

None on file.

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