

Date of Hearing: July 2, 2012

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Mike Eng, Chair

SB 1116 (Leno) – As Amended: June 27, 2012

SENATE VOTE: 39-0

SUBJECT: California Pollution Control Financing Authority: Capital Access Loan Program.

SUMMARY: Decreases the minimum contribution required of borrowers who participate in the Capital Access Loan Program (CalCAP) and would increase the length of time that a financial institution has in which to apply to the California Pollution Control Financing Authority (CPCFA) to enroll a qualified loan in CalCAP. Specifically, this bill:

- 1) Extends the amount of time from 10 days to 15 days for a financial institution to notify the CPCFA to enroll a qualified loan under CalCAP.
- 2) Decreases the minimum contribution required of borrowers who participate in the CalCAP from 2% to 1% of the principal amount of the loan.
- 3) Provides a sunset date for #2 above of April 1, 2017.
- 4) Provides that the executive director may authorize an additional 5 days for a financial institution to submit the written notification to the CPCFA on a loan-by-loan basis for a reason limited to conditions beyond the reasonable control of the financial institution.

EXISTING LAW provides for CalCAP, administered by the CPCFA to contract with eligible financial institutions for the purpose of allowing those financial institutions to participate in CalCAP, requires the CPCFA to establish a loss reserve account for each financial institution with which the authority enters into a contract, requires participating borrowers and participating financial institutions to pay the same amount into the lender's loan loss reserve account, and caps the amount that may be deposited by any single participating financial institution into any individual loan loss reserve account over a three-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, at \$100,000. [Health and Safety Code Section 44559 et seq]

FISCAL EFFECT: Unknown.

COMMENTS:

According to the sponsor of the measure, California State Treasurer, Bill Lockyer, SB 1116 will increase access to small business loans supported by CalCAP by reducing from 2% to 1% the minimum contribution amount for the borrower and lender to CalCAP reserve accounts, and extending the time for a lender to submit a loan enrollment application to CalCAP.

Background:

CalCAP is administered by the State Treasurer under the CPCFA fund. In 1972, CPCFA was established to aid businesses' efforts to move towards more environmentally-friendly practices.

In the 1970s and 1980s, CPCFA had a surplus of revenue that the Legislature and State Treasurer decided to use to establish CalCAP and use the funds towards loan access for small businesses. Since 1994, CPCFA funds have supported CalCAP; however, in more recent years the CPCFA funds diminished.

In 2007, various programs within CPCFA, including CalCAP, were narrowed or even cut in order to prevent overextension of CPCFA funds. CalCAP continued, but less money was used for small business loan assistance from 2008 to 2010. In 2010, the Legislature voted to assist small business financing and boost the CalCAP program, granting it a \$6 million appropriation from the General Fund. In addition, CalCAP received State Small Business Credit Initiative Act of 2010 federal funds in the amount of \$84 million that must be spent by 2017. While the State Treasurer previously found it necessary to reduce and constrain the program, CalCAP now has a large amount of capital at its disposal with most of it required to be spent by 2017. Thus, SB 1116 expands the CalCAP program making it more flexible and convenient for lenders and borrowers to access this additional funding.

Lenders participating in CalCAP are largely dictated by the contribution requirements of the lender, borrower and CalCAP to the loan loss reserve account. Current state law requires the borrower and lender to each contribute a minimum of 2% (and a maximum of 3.5%) of the loan amount into the reserve fund. Federal law, however, authorizes borrowers and lenders to contribute 1% to 3.5% into reserve funds, with the state matching the combined contributions of the borrower and lender.

Current law also stipulates that lenders in the CalCAP program must submit loan enrollment applications to CalCAP within ten days of making a loan. Smaller lenders have found it difficult to meet the tight timeline to submit the necessary paperwork to enroll the loan in the CalCAP program. CalCAP does not have any authority or flexibility to extend the deadline beyond ten days without legislation.

The lowered borrower and lender contribution amounts will sunset in 2017 to coincide with the expiration of the \$84 million in federal funds. The federal funds may be used to enroll loans in CalCAP until December 31, 2016. While no more federal funds may be used to enroll loans after that date, the State Treasurer's Office may use the federal funds until March 31, 2017 to cover any remaining administrative costs necessary to wrap up the use and expenditure of the federal funds. Without further action from the Legislature, the minimum contribution for lenders and borrowers will go back to 2% on April 1, 2017.

CalCAP facilitates small business lending in California by helping lenders reduce the risk of lending to small businesses. By providing a form of portfolio insurance through loan loss reserve accounts, CalCAP encourages banks and other financial institutions to make loans to small businesses that are having difficulty obtaining capital. CalCAP, the borrower and the lender all contribute funds to a loan loss reserve account associated with the lender. These funds are pooled together and can be used to cover losses associated with any enrolled loan. CalCAP collects all interest earned on reserve accounts. The interest earnings are then used for program purposes. Businesses with 500 or fewer employees are eligible to obtain loans that can be enrolled in CalCAP, provided that their principal place of business is in California and a minimum of 51% of all employees, business income, sales, or payroll is in the state. There is no minimum amount for a CalCAP loan and the maximum loan enrollment can be \$2.5 million. CalCAP has grown and assisted many small businesses as conventional financing has become more difficult to obtain. In 2011, more than 1,500 small business loans were enrolled in CalCAP; almost three

times as many as in 2009.

SB 1116 aids CalCAP in spending federal funds that expire in 2017, the 1% minimum lender and borrower contribution rate will sunset on April 1, 2017 to coincide with the end of the federal funds. By increasing access to CalCAP the State Treasurer will be able to more effectively distribute the outstanding Federal funds in a timely manner and give small businesses more access to loans needed to help their businesses succeed and grow.

PRIOR AND RELATED LEGISLATION

AB 796 (Blumenfield): Would increase the maximum allowable contribution by a financial institution participating in CalCAP to \$200,000, provided that the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010. Pending in Senate Energy, Utilities and Communications Committee.

AB 901 (V. Manual Perez), Chapter 483, Statutes of 2011: Added microbusiness lenders and small business financial development corporations to the list of financial institutions eligible to participate in CalCAP.

AB 981 (Hueso), Chapter 484, Statutes of 2011: Restored CalCAP's severely affected area funding augmentations; authorized the authority to withdraw less than the full amount of accumulated interest from loan loss reserve accounts, to offset its costs to administer CalCAP; and added community development financial institutions to the list of financial institutions eligible to participate in CalCAP.

AB 1632 (Blumenfield), Chapter 731, Statutes of 2010: Transferred a total of \$32.4 million from the General Fund to the California Small Business Expansion Fund, California Capital Access Fund, and the California Economic Development Fund, to support small businesses and facilitate matching funds that would ensure a full complement of federal funding for these programs.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer Bill Lockyer (Sponsor)
California Bankers Association (CBA)

Opposition

None on file.

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