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BILL ANALYSIS

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Senate Bill 834 (Substitute S-4 as reported by the Committee of the Whole)
Senate Bills 835 and 836 (as reported without amendment)
Sponsor: Senator Michael D. Bishop (Senate Bill 834)
Senator Tom George (Senate Bill 835)
Senator Nancy Cassis (Senate Bill 836)
Committee: Commerce and Labor

CONTENT

Senate Bill 834 (S-4) would create the "Michigan Early Stage Venture Investment Act" to require that, within one year after the bill's effective date, the "Michigan Early Stage Venture Investment Corporation" be established, a fund manager be hired, and an investment plan be established.

The Corporation would have to create the "Michigan Early Stage Venture Investment Fund". Within a year after the bill's effective date, funds would have to be solicited and available for investment consistent with the investment plan. Money in the Fund could be invested in venture capital companies to promote investment in qualified businesses. If the Fund could not repay the negotiated return on a person's investment, the Corporation would have to give the investor a certificate for a single business tax (SBT) or income tax credit for the difference between the amount repaid by the Fund and the negotiated repayment amount. The credit would be a debt of the Fund to State. The Fund would expire on January 1, 2054, and its balance would be transferred to the State's General Fund.

The Corporation would be governed by a board of directors consisting of seven members appointed by the Governor, with the advice and consent of the Senate and the House of Representatives. The board would include the State Treasurer or his or her designee, the chief executive officer of the Michigan Economic Development Corporation or his or her designee, one person recommended by the Senate Majority Leader, one recommended by the Speaker of the House, one recommended by a statewide tax-exempt organization representing venture capital companies in Michigan, and two people recommended by the Governor.

The bill also contains legislative findings, a declaration of the proposed Act's purpose, and enacting section language regarding economic development in Michigan.

Senate Bill 835 would amend the Single Business Tax Act to specify that, for tax years beginning after 2008 and before 2020, a taxpayer that was an investor could claim an SBT credit equal to the amount determined and certified under Senate Bill 834. For tax years beginning after 2009, if a credit against the SBT or a successor tax were not allowed, the taxpayer could transfer the credit to a person who could claim an income tax credit (under Senate Bill 836). The total amount of all certified SBT credits for all taxpayers for all years could not exceed $150 million. The total amount of all credits authorized for any one year could not exceed $30 million.

Senate Bill 836 would amend the Income Tax Act to provide that, for tax years beginning after 2009 and before 2020, a taxpayer to whom a certificate and remaining SBT credit amount had been transferred under Senate Bill 835 could claim that credit against the income tax.

Senate Bill 834 (S-4) would define "venture capital company" as a corporation, partnership, or other legal entity whose primary business activity is the investment of equity capital in businesses that focus on areas including, but not limited to, alternative energy technology, high-technology activity, or health care. "Qualified business" would mean a seed or early stage business that was located in Michigan, that had its corporate headquarters in Michigan, or the majority of whose employees worked a majority of their time as a site located in Michigan. "Seed or early stage business" would mean a business that had less than $15 million in gross receipts and fewer than 200 employees for the calendar year immediately preceding initial investment in the business by a venture capital company.

Senate Bill 834 (S-4) is tie-barred to Senate Bills 835 and 836, which are tie-barred to Senate Bill 834.

Proposed MCL 208.37e (S.B. 835)
Proposed MCL 206.270 (S.B. 836)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

It is not possible to provide a meaningful estimate of the fiscal impact of these bills because there are too many unknown factors. For example, there is no way to know, 1) how much investors would be willing to invest in this type of investment fund, 2) the rate of return that would be guaranteed to individual investors, 3) the ultimate actual rate of return that would be realized by this fund, or 4) the amount that investors would be eligible to claim as refundable credits against the single business tax or income tax, if the actual rate of return turned out to be less than the guaranteed rate of return. The only thing known for sure is that under these bills, the total credits paid to investors could not exceed $30 million in any one year and $150 million during the life of the fund, and investors could not claim these credits until 2009. While the bills would require the fund to repay the State for all the tax credits claimed by investors, the timing of these repayments is unclear. As a result, the maximum initial cost to the State would be $30 million in any given year and $150 million over the life of the fund, and the earliest this initial cost could be incurred would be FY 2009-10; however, over the longer term, the maximum potential cost to the State would probably be much less, or even zero, assuming the fund would eventually repay the State, with interest, for some or all of the credits paid to investors.

Date Completed: 12-3-03

Fiscal Analyst: Jay Wortley
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