



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 525 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Michael D. Bishop
Committee: Commerce and Labor

Date Completed: 6-3-05

RATIONALE

The Michigan Early Stage Venture Investment Act was enacted in 2003 to provide for the creation of the nonprofit Michigan Early Stage Venture Investment Corporation and require it to create the Michigan Early Stage Venture Investment Fund; establish an investment plan; and solicit contributions to, and make money available from, the Fund for investment in venture capital companies in Michigan. To secure investment in the Fund, the Corporation must enter into agreements with investors that contain an established and agreed-upon investment amount and repayment schedule, a guaranteed negotiated amount or negotiated return on investment over the term of the agreement, and a maximum amount of tax credits that the investor may claim in the event that repayment from the Fund falls short of the amount specified in the agreement.

The Act required the Corporation to be incorporated as a nonprofit corporation that, by September 1, 2004, received a favorable determination from the Internal Revenue Service (IRS) that the Corporation is a nonprofit corporation exempt from taxation under the Internal Revenue Code. The Corporation has received its tax-exempt determination, but it was not delivered by the date specified in the Act. It has been suggested that the tax-exemption determination date be changed.

In addition, Act allows the Corporation to employ a fund manager and other people considered necessary to implement the Act, and specifies that the Corporation may employ only one fund manager at any one time. Some people believe that the

Corporation should be allowed to hire multiple fund managers.

CONTENT

The bill would amend the Michigan Early Stage Venture Investment Act to change the date by which a Michigan Early Stage Venture Investment Corporation had to be incorporated as a nonprofit corporation that received a favorable determination from the IRS that it is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. The Act required incorporation and IRS nonprofit determination by September 1, 2004. The bill would change the deadline to August 1, 2005.

The bill also would allow the Michigan Early Stage Venture Investment Corporation to employ "fund managers", rather than "a fund manager", and would delete a requirement that the Corporation employ only one fund manager at any one time.

MCL 125.2235 & 125.2245

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Michigan Early Stage Venture Investment Act aims to position Michigan for a future of economic growth and diversity by promoting the development of new and progressive businesses in the State. Access to venture capital in Michigan is critical to developing and keeping new companies and

jobs, and the 2003 legislation created the Michigan Early Stage Venture Investment Corporation to promote the availability of venture capital that can spur economic growth in Michigan. The Corporation, however, received its IRS tax-exempt designation after the deadline established in the Act. By requiring that the Corporation achieve its tax-exempt status by August 1, 2005, rather than September 1, 2004, the bill would ensure that the Corporation was in technical compliance with the statute. This could encourage the corporation to fulfill its obligations under the Act and operate as the economic development tool that was envisioned when the Act was adopted.

Supporting Argument

The Act's requirement that the Corporation employ only one fund manager at any one time is unnecessarily restrictive. Employing multiple managers would enable the Corporation to maximize its productivity in investing and managing the Fund by using experts in different types of potential investments.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Changing the date by which the Corporation must receive IRS tax-exemption approval to August 1, 2005, as proposed in this bill, is viewed as a technical change and would have no fiscal impact. The bill also would allow more than one fund manager to be hired. Current law gives the Michigan Early Stage Venture Investment Corporation the ability to charge reasonable fees to support its ongoing operations. Therefore, the cost of additional managers, which could run about \$100,000 per manager, would have to be covered by these fees. This bill would have no fiscal impact on the State's General Fund and would not have any direct impact on local governments.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.