



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5921 (Substitute H-2 as reported without amendment)  
Sponsor: Representative Ellen Cogen Lipton  
House Committee: New Economy and Quality of Life  
Senate Committee: Economic Development and Regulatory Reform

**CONTENT**

The bill would create the "Small Business Investment Credit" under the Income Tax Act to allow a taxpayer to claim a credit equal to 25% of a "qualified investment" in a "qualified business", for tax years beginning after 2009 and ending before 2014. The bill would do all of the following:

- Require a taxpayer to receive a certificate from the Michigan Strategic Fund (MSF) to qualify for the credit.
- Prohibit the MSF board from certifying more than \$1.0 million in qualified investments in any one business.
- Limit a taxpayer to a credit of \$500,000 based on an investment in any one business and for investments in all qualified businesses in any one year.
- Require a credit to be taken in installments over two years.
- Limit to \$10.0 million the total amount of credits the MSF could certify in one year, but allow the difference to be carried forward to the next year if less than that amount were awarded in any year.
- Allow a credit that exceeded a taxpayer's liability to be carried forward for up to 15 years.
- Require the MSF board to develop an application and approval process for the credit.
- Prohibit the MSF board from approving a credit for a convicted felon, if the conviction would have a material impact on the taxpayer's ability to participate in a qualified investment.

"Qualified investment" would mean an investment of at least \$15,000 certified by the MSF that is made alongside of, or through, a seed venture capital or angel investor group that is registered with and approved by the MSF and is not in a business that employs or is owned by any member of the investor's family or with which the investor or any member of the investor's family has a preexisting fiduciary relationship.

"Qualified business" would mean a business that the MSF board certifies as in compliance with all of the following at the time of the investment:

- The business is a "seed or early stage business" as defined in the Michigan Early Stage Venture Investment Act.
- The business has or will have, as determined by the MSF board, its headquarters in Michigan, is domiciled in Michigan, and has a majority of its employees working in Michigan.

- The business has a preinvestment valuation of less than \$10.0 million and has fewer than 100 full-time equivalent employees.
- The business has been in existence less than five years (subject to an exception for business activity derived from research at an institution of higher education in Michigan or an organization exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code that is located in Michigan.
- The business is an economic base employer as determined by the MSF board.

Proposed MCL 206.278

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would reduce General Fund revenue and could lower School Aid Fund revenue, as well. The reduction in revenue would average approximately \$10.0 million per year, but the amount could vary because the bill would allow unawarded credits to carry over into subsequent years. School Aid Fund revenue would be reduced only to the extent that taxpayers reduced withholding and/or quarterly payments in expectation of claiming the credit; otherwise, the bill would reduce General Fund revenue only.

It is unknown how many taxpayers or businesses would be affected by the bill. The bill would limit the credit for an investment in a single business to \$500,000, but also would limit the certified investments in a single business to \$1.0 million, which would generate a credit of only \$250,000 based on 25% of the maximum credit amount—suggesting that the \$500,000 limit on the credit would be largely irrelevant. Also, investments would have to be made in qualified businesses, and the bill would require these businesses to be an "economic base employer", a term that is not defined in the bill or elsewhere in statute.

The bill would increase the responsibilities of the Michigan Strategic Fund, which would be required to administer the proposed Small Business Investment Credit, including developing application and approval processes and certifying credits. Michigan Strategic Fund staff have indicated that these responsibilities could be absorbed by existing employees. The MSF budget for FY 2009-10 is appropriated in Public Act 128 of 2009. The line item for Job Creation Services supports most of the agency's staff for business development programs. This line is appropriated at \$16,301,900 and 127.0 FTEs in FY 2009-10; \$13,025,200 of the appropriation is General Fund/General Purpose revenue.

Date Completed: 6-16-10

Fiscal Analyst: Elizabeth Pratt  
Maria Tyszkiewicz  
David Zin

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