Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4195 (Substitute H-2 as passed by the House)
House Bill 4196 (Substitute H-3 as passed by the House)
House Bill 4365 (Substitute H-1 as passed by the House)
Sponsor: Representative Al Pscholka (H.B. 4195)
Representative Michael D. McCready (H.B. 4196)
Representative Brandt Iden (H.B. 4365)
House Committee: Commerce and Trade
Senate Committee: Economic Development and International Investment

Date Completed: 5-14-15

CONTENT

House Bill 4195 (H-2) would amend the Michigan Early Stage Venture Investment Act to prohibit the Michigan Early Stage Venture Investment Corporation from entering into any new agreements with investors, creating any new Michigan Early Stage Venture Investment Funds, or making any new commitments to contribute capital to a venture capital company.

The Treasury Department would be prohibited from approving any new tax voucher certificates after the effective date of the bill. The total allowable amount of all tax voucher certificates issued under the Act would be reduced from $600.0 million to $450.0 million.

The bill would require the Corporation's annual report to be provided to the chairpersons of the House and Senate Appropriations Committees and be made available on the internet. It also would add several required items to the report.

The bill also would require the property of the Corporation to be distributed to the General Fund upon dissolution of the Corporation.

House Bill 4196 (H-3) would amend the Michigan Early Stage Venture Investment Act to change the expiration date of the Michigan Early Stage Venture Investment Fund from January 1, 2054, to January 1, 2030, and would require all money in the Fund (minus outstanding debts and obligations) to be distributed to the General Fund on that date.

House Bill 4365 (H-1) would amend the Michigan Business Tax Act to change the total allowable amount of voucher certificates from $600.0 million to $450.0 million.

All of the bills are tie-barred.

House Bill 4195 (H-2) is discussed in detail below.

The bill would prohibit the Michigan Early Stage Venture Investment Corporation from entering into any new agreements with investors after the effective date of the bill. The Corporation would be allowed to modify an existing agreement with an investor as long as no additional principal was borrowed from the investor and the amount of total tax vouchers was not increased above $450.0 million. (A tax voucher is a certificate that a taxpayer can remit in lieu of a tax payment or a portion of a tax payment.) The Corporation also would be allowed to modify an existing agreement with an investor from which it had received a loan or line of credit and spend money to modify that agreement as long as it did not spend more than $500,000 without the consent of the State Budget Director and it notified the State Budget Office and the chairpersons of the House and Senate Appropriations Committees within 30 days of the finalization of the modification.

The bill would prohibit the Corporation from creating a Michigan Early Stage Venture Investment Fund or making any new commitments to contribute capital to a venture capital company after the effective date of the bill. A fund could modify an existing agreement or investment with a venture capital company as long as no additional money was committed to the company.

Upon dissolution of the Michigan Early Stage Venture Investment Corporation, the Act requires the property remaining after providing for its debts and obligations to be distributed to a governmental unit or a tax-exempt organization as designated by its board of directors. If the board fails to designate an organization, the property must pass to the State. The bill instead would require the property to be distributed to the General Fund.

The Michigan Early Stage Venture Investment Corporation is required under the Act to publish an annual report detailing its activities, the economic impact of its investment plan on the State, and other information. The bill also would require the report to include the following items:

-- Return from investments made by each Michigan Early Stage Venture Investment Fund in venture capital companies.
-- The number of seed or early stage businesses that had been funded by venture capital companies.
-- The aggregate net distributions made to each fund by the venture capital companies that had entered into agreements with each fund through the end of the fiscal year and since the inception of each fund.
-- The total amount invested by each fund in venture capital companies.
-- Any upcoming use of tax vouchers that was certain and the timing of that use.
-- An estimate of the potential use of tax vouchers over the five-year period following the end of the fiscal year.

MCL 125.2237 et al. (H.B. 4195)
125.2261 (H.B. 4196)
208.1419 (H.B. 4365)

BACKGROUND

The Michigan Early Stage Venture Investment Act, which created the Michigan Early Stage Venture Investment Corporation, was enacted in 2003 to "promote the economic health" of Michigan "by assisting in the creation of new jobs, new businesses, and new industries". The Corporation created a fund-of-funds (the Venture Michigan Fund, or VMF) which invest money with private venture capital funds that, in turn, invest in Michigan-based early stage companies. Two funds were created under the VMF: the Venture Michigan Fund I, Limited Partnership (VMF I) and the Venture Michigan Fund II, Limited Partnership (VMF II).

The Venture Michigan Fund borrowed $450.0 million to provide investment capital for VMF I and VMF II, and business tax credits were used to collateralize the loans. The credits were subsequently converted by statute to transferable tax vouchers, which may be sold to

Michigan taxpayers. Those taxpayers may remit the vouchers to satisfy their withholding liabilities under the Michigan individual income tax.

As approved by the State Treasurer, $450.0 million in vouchers have been issued (out of the $600.0 million currently authorized by statute). The vouchers essentially are held in escrow, and will be sold as necessary to make loan repayments to the extent that the return on investments in the venture capital funds is not sufficient. At present, vouchers worth $140.0 million (out of the $450.0 million issued) are scheduled to be presented to the lenders as follows: $25.0 million in June 2015, $25.0 in October 2015, $50.0 million later in fiscal year 2015-16, and $40.0 million in fiscal year 2016-17. It is not known, however, when the lenders will sell the vouchers, what proceeds the lenders ultimately will receive for them, or when the taxpayers purchasing the vouchers will use them to satisfy a tax obligation.

(For an in-depth discussion of the Michigan Early Stage Venture Investment Corporation and the related issues, please see the Senate Fiscal Agency's State Notes article, "Michigan Early Stage Venture Capital Tax Vouchers", winter 2015.[1])

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

The bills would effectively increase State revenue by an unknown amount by: 1) reducing the potential number of tax vouchers that may be redeemed against State tax liabilities, and 2) requiring net returns from affected investments to be deposited into the General Fund. While $450.0 million of tax vouchers has already been issued under the Act, current law allows as much as $600.0 million in vouchers to be issued. The bills would limit that exposure to the $450.0 million that has already been issued, effectively preventing a potential revenue reduction of $150.0 million.

The bills also would direct net returns from affected investments to the General Fund, which would increase General Fund revenue by an unknown amount that would depend on the performance of the underlying investments. Because the bills also would accelerate when the Michigan Early Stage Venture Investment Fund will expire, those provisions could potentially reduce the return that might be earned if the investments are held for a longer period of time. The magnitude of any change in return from accelerating the expiration date is unknown.

Fiscal Analyst: David Zin

[1] The article can be found at this site:
http://www.senate.michigan.gov/sfa/Publications/Notes/2015Notes/NotesWin15dz.pdf