

Date of Hearing: May 3, 2011

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Pérez, Chair

AB 901 (V. Manuel Perez) – As Introduced: February 17, 2011

SUBJECT: Implementation of Small Business Jobs Act

SUMMARY: Expands the definition of eligible financial institution for participation under the California Capital Access Loan Program (CalCAP) a program receiving \$90 million dollars in federal and state funding for small business assistance. Specifically, this bill:

- 1) Defines "financial institution" to include small business financial development corporations or microenterprises development organizations, as specified.
- 2) Updates the requirement that financial institutions provide the Standard Industrial Classification (SIC) Code, and instead will now provide the North American Industry Classification System (NAICS).
- 3) Requires, as part of the CalCAP annual report that the programmatic results include, but are not limited, to the following:
 - a) Number of total outstanding loans issued;
 - b) Number of new loans issued since the prior year's report;
 - c) Number of businesses served, jobs created and retained, as well as a breakdown of businesses served by industry sector; and
 - d) Geographic distribution of the loans for the reporting period.

EXISTING LAW:

- 1) Establishes CalCAP for the purpose of providing a small business loss reserve account program through participating financial institutions.
- 2) Requires a loss reserve account be established for each financial institution working with CalCAP, specifies that the account is fee driven, and that all moneys in the account are the exclusive property of California Pollution Control Financing Authority (CPCFA).
- 3) Requires the CPCFA to report annually to the Governor and Legislature describing the financial condition and programmatic results of the CalCAP.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Purpose of the bill: According to the author, "AB 901 helps to ensure that there are not technical hurdles that impede the successful delivery of the state and federal Small Business Jobs Acts of 2010 that will provide \$174 million in new dollars for California small businesses.

Some of these funds will be administered through federal agencies, such as the Small Business Administration, while others will be awarded and implemented through existing state programs, such as the Capital Access Loan Program. Collectively, these programs offer unique, new financing and technical assistance opportunities to California's small businesses.

In addition, AB 901 adds accountability provisions related to how the funds are used, by specifying that the programmatic reports include the total number of businesses served, jobs created, jobs retained, the geographic distribution of the loans, and the types of businesses served."

- 2) The Federal Small Business Jobs Act of 2010: The Federal Small Business Jobs Act of 2010 creates the Small Business Lending Fund Program that directs the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes. Of the \$505 billion dollars to be distributed nationally, California is scheduled to receive \$168 million which will be administered through two state programs the CalCAP in the Treasurer's Office and the California Small Business Loan Guarantee Program in the California Business, Transportation and Housing Agency (BTH).
- 3) California Capital Access Program for Small Businesses: CalCAP was established by legislation enacted in 1994. The program assists small businesses in obtaining loans through participating financial institutions through a loss reserve account model, which is described in the following comment.

The objective of the program is to incentivize financial institutions to provide small businesses with the capital to maintain and grow their business. Loans can be used to finance the acquisition of land, construction or renovation of buildings, the purchase of equipment, other capital projects and working capital. While eligible, there are limitations on real estate loans and loan refinancing.

The maximum loan amount is \$2.5 million. The maximum premium lenders will pay is \$100,000 (per borrower). Lenders set the terms and conditions of the loans and decide which loans to enroll into CalCAP. Loan fees, which are used to capitalize the loan reserve account, are set by the lender and are in the range of 2% to 3.5% of the total loan amount. Loans can be short- or long-term, have fixed or variable rates, be secured or unsecured, and bear any type of amortization schedule.

Moneys to operate CalCAP originally came from excess program fees charged to applicants working with CPCFA relative to the issuance of private activity bonds. In 2009, CalCAP enrolled 523 loans to California small business owners, 335 were to microenterprises totaling \$4.7million. As of December 31, 2009, the total number of loans enrolled in the program since 1994 is 7,858.

As of December 31, 2009, CalCAP lenders have cumulatively loaned over \$1.35 billion since the program's inception in 1994. The amount of enrolled loans in 2009 totaled \$45.8 million and they created/affected 1,620 jobs in California.

- 4) CalCAP loss reserve account: Under the loan reserve account model, CalCAP enrolls financial institutions into the program and agrees to match loss reserve account premiums (fees) paid by borrowers and lenders on eligible loans. As an example, if the lender and the borrower each contribute an amount equal to 2% of the loan amount, CalCAP would contribute 4% into the loan reserve account. For eligible loans in "severely affected areas," CalCAP would contribute an additional 50%, making CalCAP's total contribution to the loss reserve account 150% of the lender's contribution.

In 2008, CPCFA determined it could not sustain the program at the traditional contribution levels of CalCAP matching the total contributions of the lender and borrower. Legislation was enacted that reduced the minimum CalCAP contribution to an amount equal to the lender contribution. Thus, each of the three entities (CalCAP, lender and borrower) would contribute between 2% and 3.5% to the loss reserve account. The language in the 2008 bill allowed CalCAP to make a higher contribution rate if CPCFA chose to do so. However, for severely affected communities, the CalCAP contribution remained at 150% of the amount of the lender contribution.

In late 2010, the Legislature passed (AB 1632, Chapter 731, Statutes of 2010) to provide additional funds to CalCAP and to expand the definition of severely affected communities to include communities with high unemployment. With the \$6 million in additional state funds, and later \$84 million in federal funds, the CPCFA Board approved increasing the contributions to pre-2008 levels to encourage more small business lending.

However, because the earlier legislation states that CalCAP contributions would be set at 150% of lender contributions in severely affected communities, CalCAP faced an odd dilemma. CalCAP could raise the loss reserve contributions to historic levels using state funds, but would have to provide a lower contribution in severely affected communities. Specifically, CalCAP contributions could be raised to 200% of lender contribution outside of severely affected communities and 150% of lender contributions inside severely affected communities.

Flexibility is needed so that CPCFA can more efficiently administer CalCAP within the loss reserve account limits to allow CPCFA to raise or reduce lender/borrower contributions in severely affected communities when additional funds are available.

The **chart below** provides a summary of contribution levels described above.

Comparison of CalCAP Contributions			
	Lender Contribution	Borrower Contribution	CalCAP Contribution
Pre-SB 1311	2-3.5%	2-3.5%	4-7%
Pre-SB 1311 SAC	2-3.5%	2-3.5%	6-10.5%
SB 1311 (2008-late 2010)	2-3.5%	2-3.5%	2-3.5%
SB 1311 SAC	2-3.5%	2-3.5%	3-5.25%
Current State Funds	2-3.5%	2-3.5%	3-5.25%
Current State Funds SAC	2-3.5%	2-3.5%	3-5.25%
State Funds with AB 981	2-3.5%	2-3.5%	4-7%
State Funds with AB 981 SAC	2-3.5%	2-3.5%	6-10.5%

Current Federal Funds	2-3.5%	2-3.5%	4-7%
Current Federal Funds SAC	2-3.5%	2-3.5%	4-7%
Federal Funds with AB 981 using state funds for added SAC amount	2-3.5%	2-3.5%	6-10.5%
SAC stands for Severely Affected Community			
Source: California Treasurer's Office			

- 5) California Small Business: California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$1.9 trillion economy. Businesses with less than 100 employees comprise nearly 98% of all businesses, and they are responsible for employing more than 37% of all workers in the state.

Small- and medium-sized businesses are crucial to the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy. Of the over 57,461 companies that exported goods from California in 2008, 96% were small- and medium-sized enterprises (SME) with fewer than 500 employees. These SMEs generated nearly two-fifths (44%) of California's exports in 2008. Nationally, SMEs represented only 31% of total exports. These numbers include the export of only goods and not services.

Small businesses function as economic engines, especially in challenging economic times. During the nation's economic downturn from 1999 to 2003, microenterprises (businesses with less than five employees) created 318,183 new jobs or 77% of all employment growth, while larger businesses with more than 50 employees lost over 444,000 jobs. From 2000 to 2001, microenterprises created 62,731 jobs in the state, accounting for nearly 64% of all new employment growth. According to a 2010 report from the California Senate Office of Research, in 2008 microenterprises employed four million people or 19% of the state's employment. Common types of microenterprises include engineering, computer system design, housekeeping, construction, landscaping, and personnel services.

- 6) Proposed Amendments: Staff understand that amendments will be offered which do the following:
- a) Exempts non-profit small business lenders from the California lending license requirement;
 - b) Requires CPCFA to contribute an amount not less than \$150 of the amount of the fees paid by the participating financial institution, if the business is located within a severely affected community, as defined; and
 - c) Deletes the requirement that the CalCAP annual report should include a number of new programmatic results.
- 7) Related Legislation: Below is a list of related legislation from current and previous legislative sessions:
- a. AB 981 (Hueso): This bill requires the CPCFA to contribute a minimum of 150% of the fees paid by participating financial institutions, if the qualified business is located within

a severely affected community. The bill would also authorize the use of a portion of the interest or other income that has been credited to a loss reserve account from a participating financial institution. Status: Scheduled to be in the Assembly Committee on Jobs, Economic Development and the Economy, May 3, 2011.

- b. AB 1632 (Blumenfeld): This bill provides the necessary statutory changes in the area of job creation and small business development in order to implement the 2010 Budget Act. The bill transfers \$32.4 million from the General Fund to support four small-business and jobs programs that exist in current law. The funding appropriated in this bill goes to the Small Business Loan Guarantee Program (\$20 million); California Capital Access Fund (\$6 million); Small Business Development Centers (\$6 million); and the Federal Technology Centers (\$350,000). Status: Signed by the Governor, Chapter 731, Statutes of 2010.
- c. SB 225 (Simitian) California Pollution Control Financing Authority: Capital Access Loan Program: This bill authorizes CPCFA to establish loss reserve accounts for the purposes of terminal rental adjustment clause leasing, if funds are available for contribution into the loss reserve account from any source other than the authority. Status: Pending in Assembly Rules Committee, May 2011.
- d. SB 832 (Senate Committee on Environmental Quality): This bill revises, under the tax-related provisions, the terms "project" and "pollution control facility", as defined in the California Pollution Control Financing Authority Act that are eligible for the sales and use tax (SUT) exclusion and includes public agencies in the definition of "participating parties" that are eligible for financial assistance in connection with the projects designed to control or eliminate environmental pollution. Status: Signed by the Governor, Chapter 463, Statutes of 2009.
- e. SB 1311 (Simitian): This bill reduces the monetary contribution of the CPCFA to an amount equal to the amount of fees paid by a participating financial institution. Also provides that CPCFA may withdraw from the loss reserve account all interest or other income that has been credited to that account for the purpose offsetting administrative costs and contributions. Status: Signed by the Governor, Chapter 401, Statutes of 2008.

REGISTERED SUPPORT / OPPOSITION:

Support

Book Pointe Solutions
Binderup Investments, Inc.
Bouchard Business Services
California Association for Local Economic Development
California Association for Micro Enterprise Opportunity
California Small Business Development Center
California Small Business Development Center at Cabrillo College
California Small Business Development Center Northern CA Regional Network
California Small Business Development Center Orange County/Inland Empire Regional Network
California Small Business Development Center, U.C. Merced Regional Network
California Small Business Development Center, City College of San Francisco

California Small Business Development Center, North Coast Center
California Small Business Development Center, San Diego/Imperial Regional Network
California Small Business Development Center, Silicon Valley
CDC Small Business Finance
Gibson House
Healings in Motion
Inland Empire Economic Partnership
Kendra Renee Handmade Jewelry
Northern California Small Business Development Center, San Joaquin Delta College
Small Business Development Center, Los Angeles Regional Network
Star Employment Agency
Woodland Chamber of Commerce
Yuba County, Supervisor – District Two
Yuba Sutter Economic Development Corporation
Yuba Sutter Indio American Business Association

Opposition

None received

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