

Date of Hearing: May 3, 2010

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE  
ECONOMY

V. Manuel Pérez, Chair

AB 981 (Hueso) – As Introduced: February 18, 2011

SUBJECT: California Pollution Control Financing Authority: Capital Access Loan Program.

SUMMARY: Makes changes to the California Capital Access Program (CalCAP), administered through the California Pollution Control Finance Authority (CPCFA), for the purpose of encouraging greater financial institution participation in the small business credit program. Specifically, this bill:

- 1) Expands the financial institution definition to include insured depository institutions, insured credit unions, and for profit community development financial institutions.
- 2) Authorizes the CPCFA to withdraw a portion, rather than all of the interest credited to an individual loss reserve account at a participating financial institution.
- 3) Requires the 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.

EXISTING LAW:

- 1) Establishes the CalCAP for the purpose of providing a small business loss reserve account program through participating financial institutions.
- 2) Requires CPCFA to establish a loss reserve account for each financial institution, specifies that the account is fee driven and that all moneys in the account are the exclusive property of CPCFA.
- 3) Requires the CPCFA to transfer to the loss reserve account an amount equal to 150% of the amount of the fees paid by the participating financial institution, if the business is located in a severely affected community.
- 4) Requires the CPCFA to report 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, the California Capital Access Program (CalCAP) recently received \$84 million in funding from the federal Small Business Lending Act of 2010. This funding will greatly increase the lending ability of the CalCAP and increase access to capital for California businesses. In fact, this funding is expected to help provide loan portfolio insurance for an additional \$1.5 to \$2 billion in loans.

The proposed changes in AB 981 will expand access to the benefits of CalCAP by aligning CalCAP's regulations to the federal capital access program. This alignment will allow CalCAP to maximize the use of the \$84 million allocated to CalCAP by U.S. Treasury. Additionally, AB 981 will help encourage lending in high unemployment areas and other distressed communities.

- 2) Definitions: It appears that the definitions in current law and those being added by AB 981 are similar. Last year through the federal Small Business Jobs Act of 2010 (Act), CalCAP received \$84 million, and the Treasurer's office wants to ensure that California maximizes its usage of these added federal moneys by mirroring federal statute.
- 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. 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 of which were made to microenterprises totaling \$4.7million. However, all CalCAP loans in made 2009 totaled \$45.8 million and they created/affected 1,620 jobs in California.

As of December 31, 2009, the total number of loans enrolled in the program since 1994 is 7,858. CalCAP lenders have cumulatively loaned over \$1.35 billion since the program's inception in 1994

- 4) CalCAP loss reserve account: Under the loan reserve account model, CalCAP enrolls financial institutions into the program and agree 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 contributes an additional contribution.

In 2008, CPCFA realized 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 would be 150% of the amount of the lender contribution.

In late 2010, the legislation 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, 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, due to the earlier legislation saying 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 could be raised to 200% of lender contribution outside of severely affected communities and 150% of lender contributions inside severely affected communities.

The language in AB 981 seeks to address these challenges by providing flexibility depending on available funds. If funding is tight, CPCFA will be able to reduce the contributions in the program to equal contributions from borrower, lender, and limit the amount of contribution in severely affected communities to 150% of the lender contributions. However, when additional funds are available, or when CPCFA wants to augment federal funds to encourage more lending in severely affected communities, CalCAP will be able to provide additional support. The **chart below** provides a summary of contribution levels described above, as well as the amounts likely to be used if this bill passes.

<b>Comparison of CalCAP Contributions</b>			
	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) Background on the Act: The federal Small Business Jobs Act provides millions of new dollars for California small businesses. Some of these moneys will be administered through federal agencies, such as the Small Business Administration, while others will be awarded to states and implemented through existing state programs. In addition to the new federal funds, the Assembly proposed and the Governor signed a \$30 million state Small Business Act. Collectively, these two measures will offer unique new financing and technical assistance opportunities to California's small businesses. The state's challenge is how best to leverage the various federal and state programs.

To address this challenge, JEDE began facilitating a small business network of government agencies, community and financial intermediaries, legislative staff, and small business and economic development trade associations. Three meetings were held over the course of five months, October 2010 through February 2011, to help strengthen the network and monitor implementation.

Since October the network has grown organically. Many of the participants are practitioners or have had program experience, which supports the groups' goal to help facilitate the successful and strategic implementation of the federal and state programs. At the January meeting, the network decided to hold monthly meetings in order to continue its work. Accomplishments of the Small Business Network include:

- a) Facilitated dozens of new private lenders to participate in the expanded state small business guarantee programs;
- b) Developed a comprehensive finance and technical assistance marketing strategy;
- c) Initiated cross training among small business lenders, supported by the Small Business Development Centers a coalition of CRA lenders; and
- d) Established an on-line Small Business Calendar at Governor's Office of Economic Development.

The network continues to work on implementation of new federally funded programs, such as the International Trade Program and the Small Business Fund Lending Program, as well as federal and state regulatory reforms.

- 6) 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 more than 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.

- 7) Related Legislation: Below is a list of related legislation from current and previous legislative sessions:
- a) AB 901 (V. Manuel Pérez): This bill expands the definition of financial institutions and increases reporting requirements in the California Capital Access Loan Program (CalCAP), which is one of the programs which will be receiving multimillion dollars in federal and state funding for small business through the federal and state Small Business Jobs Act of 2010. Status: Pending in 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): This bill authorizes the authority 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, April 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 643, Statutes of 2009.
  - e) SB 1311 (Simitian): This bill reduces the monetary contribution of the California Pollution Control Financing Authority (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

California State Treasurer's Office

Opposition

None received

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