DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 6, 2011
POSITION: Oppose
SPONSOR: California Department of Insurance

BILL NUMBER: AB 624
AUTHOR: J. Perez
RELATED BILLS: AB 2831 (Stats. 2006, Ch. 580), SB 409 (Stats. 2001, Ch. 535), AB 1520 (Stats. 1997, Ch.947)

BILL SUMMARY: Tax:Community Development Financial Institutions Credit

This bill would extend the repeal date of the existing Community Development Financial Institution (CDFI) investments credit provided under the Personal Income Tax Law, the Corporation Tax Law, and the Insurance Tax Law, from January 1, 2012, until January 1, 2017, and authorize the establishment of a California Organized Investment Network (COIN) Advisory Board to advise COIN as specified.

FISCAL SUMMARY

According to the Franchise Tax Board (FTB) this bill would result in income tax revenue losses of $200,000 in 2011-12, $420,000 in 2012-13, $450,000 in 2013-14, and $450,000 in 2014-15 based on past usage of the credit. Using data from the California Department of Insurance (CDI) for 2000 through 2010, the average annual credit amount to insurers to be taken against the gross premiums insurance tax was $385,000. Assuming that level is maintained, the annual revenue loss to the income taxes and the insurance tax combined would be in the range of $850,000.

This bill maintains the current $2 million annual limit on credits for another five calendar years as well as the provision to allow the maximum to be increased in any year if it was not fully utilized in the prior year. Thus, if fully utilized, this measure would result in General Fund revenue losses of $10 million over five years.

According to the CDI the annual costs associated with this measure would be minor (less than $40,000 annually) and absorbable within existing resources. FTB indicates their costs will not be significantly impacted by this measure.

COMMENTS

Finance opposes this bill as it would result in annual revenue losses in the range of $850,000. However, if the maximum amount of allowable credits is fully utilized, this bill would result in revenue losses of $2 million per year.

Note: The CDFI investment credit repeal date has been extended twice previously: Chapter 535, Statutes of 2001 (SB 409), extended the repeal date from January 1, 2002, to January 1, 2007, and Chapter 580, Statutes of 2006 (AB 2831), extended the repeal date from January 1, 2007, to January 1, 2012.

Analyst/Principal (0724) R. Lawrence	Date	Program Budget Manager Mark Hill	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved_______ Position Disapproved

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ANALYSIS

A. Programmatic Analysis

Existing state law:

- Allows for the establishment of Community Development Financial Institutions (CDFI) in California to provide financial services to those in communities that are underserved by traditional financial markets. A CDFI is defined as a private financial institution located in this state that is certified by the California Organized Investment Network (COIN) to have community development as its primary mission and that lends in urban, rural, or reservation-based California communities. They may be banks, credit unions, or non-profit institutions organized to gather private capital for lending and development in under-developed communities. The CDFIs provide necessary financial services to low-income individuals, communities and the non-profit institutions that serve them. Additionally, they provide a number of other services such as credit counseling, technical assistance, and financial training that are not accessible to underprivileged communities. These tax credits are intended to provide an incentive to draw private capital investments that might not otherwise be available to CDFIs.

- Provides that under the Personal Income Tax Law, Corporation Tax Law, and the Insurance Tax Law, taxpayers may compete for a tax credit equal to 20 percent of each qualified deposit made into a CDFI. The credit applies for each taxable year beginning on or after January 1, 2007, and before January 1, 2012.

  Total qualified deposits for all taxpayers cannot exceed $10 million in a calendar year; thus the maximum amount of new credits that can be claimed each year is $2 million.

  If the total qualified deposits in any calendar year is less that $10 million, the difference may be carried over to succeeding years and added to the total amount authorized for those years.

  Note: Chapter 947, Statues of 1997 (AB 1520), specified that the tax credits would be effective from January 1, 1997, to January 1, 2002. Chapter 535, Statutes of 2001 (SB 409), extended the repeal date from January 1, 2002, to January 1, 2007. Chapter 580, Statutes of 2006 (AB 2831), extended the repeal date from January 1, 2007 to January 1, 2012.

In order to claim this credit, the CDFI has to meet the following requirements:

- Be certified by the California Organized Investment Network (COIN) of the Department of Insurance as a community development financial institution.

- Apply to the COIN for certification of the credit amount allocated on behalf of the taxpayer before accepting a qualified deposit.

- Notify the taxpayer and the COIN that a qualified deposit has been accepted and the amount of credit to which the taxpayer is entitled.

COIN must certify and issue certificates for each CDFI, for each qualified deposit, and for the total credit allocated, and must provide the FTB with information pertaining to the taxpayers, including their identification numbers, the amount of the deposit, and the total amount of qualified deposits.

“Qualified deposit” is a deposit that does not earn interest, or an equity investment that is at least $50,000 and is made for at least 60 months. If a qualified deposit is withdrawn before the end of 60 months and not re-deposited in another CDFI within 60 days, the entire credit previously allowed is recaptured. If a qualified deposit is reduced before the end of 60 months, but not below $50,000, the amount of the credit that was allowed on the withdrawn funds is recaptured. CDFIs are required to annually provide a list of those taxpayers who make early withdrawals or reductions to qualified investments to the FTB and to COIN.

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This bill would do the following:

- Extend the operation of this tax credit under the Personal Income Tax Law, Corporation Tax Law, and the Insurance Tax Law until January 1, 2017.
- Authorize the Insurance Commissioner to establish and appoint a COIN Advisory Board to (1) advise COIN on the best methods to increase the level of insurance industry capital in safe investments while providing fair returns to investors, and social benefits to underserved communities, (2) increase contacts among executives at insurance companies, community-based organizations, and CDFIs, and (3) recommend programmatic guidelines to the COIN program. The Advisory Board would meet quarterly or as deemed necessary by the Commissioner and board members would not receive compensation but may be reimbursed for the actual and necessary expenses incurred in connection with the meeting.

  Note: According to the CDI, this bill would statutorily create an Advisory Board which has been maintained on an informal basis.
- Require that priority be given to those applications that meet any or all of the following criteria if COIN determines that total aggregate qualified investments will exceed $10 million:

  Directly benefit low-income persons.

  Prioritize rental housing, mortgages for community-based residential programs, and self-help housing ahead of single family owned housing.

  Represent investments from insurance companies subject to tax under Revenue and Taxation Code Section 12201 or under Section 28 of Article XIII of the California Constitution. (The taxation refers to the Insurance Gross Premiums tax.)

This bill would be effective and operative on January 1, 2012.

B. Fiscal Analysis

According to the FTB this bill would result in income tax revenue losses of $200,000 in 2011-12, $420,000 in 2012-13, $450,000 in 2013-14, and $450,000 in 2014-15 based on past usage of the credit. Using data from the CDI for 2000 through 2010, the average annual credit amount to insurers to be taken against the gross premiums insurance tax was $385,000. Assuming that level is maintained, the annual revenue loss to the income taxes and the insurance tax combined would be in the range of $850,000.

This bill maintains the current $2 million annual limit on credits for another five calendar years as well as the provision to allow the maximum to be increased in any year if it was not fully utilized in the prior year. Thus, if fully utilized, this measure would result in General Fund revenue losses of $10 million over five years.

According to the CDI, they currently maintain an informal COIN Advisory Board. Assuming that the Board meets twice a year, it is estimated that the cost would likely be minor (less than $40,000 per year) and absorbable within existing resources. FTB indicates their costs will not be significantly impacted by this measure.

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Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2011-2012	FC	2012-2013	FC	2013-2014	Fund Code
1104/Corp Tax	RV	No	U	-$100	U	-$210	U	-$225	0001
1147/Pers Inc Tax	RV	No	U	-$100	U	-$210	U	-$225	0001
1133/Insur Prm Tx	RV	No	U	-$200	U	-$400	U	-$400	0001
0845/Insurance	SO	No		------------------- No/Minor Fiscal Impact -------------------					0001
1730/FTB	SO	No		------------------- No/Minor Fiscal Impact -------------------					0001