

## **BILL ANALYSIS**

Senate Research Center

S.B. 1491  
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### **DIGEST AND PURPOSE**

Currently, Texas has no initiatives that have direct state involvement or investment in venture funding. As proposed, S.B. 1491 creates a certain venture capital investment plan and grants a franchise tax credit for certain investors that provide venture capital financing.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 483.056, Government Code) and in SECTION 2 (Section 171.907, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 4F, Government Code, by adding Chapter 483, as follows:

#### CHAPTER 483. VENTURE CAPITAL INVESTMENT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 483.001. DEFINITIONS. Defines “business entity,” “committee,” “comptroller,” “designated investor,” “equity capital,” “fund,” “investor,” and “near equity capital.”

Sec. 483.002. APPLICABILITY. Provides that this chapter applies only to a designated investor.

[Reserves Sections 483.003-483.050 for expansion.]

##### SUBCHAPTER B. VENTURE CAPITAL INVESTMENT

Sec. 483.051. VENTURE CAPITAL INVESTMENT PLAN. (a) Authorizes an investor, in accordance with rules adopted by the comptroller under Section 483.056, to develop and submit to the comptroller a venture capital investment plan.

(b) Requires the plan to state in detail the manner in which certain actions will take place.

(c) Requires the plan to include certain information.

Sec. 483.052. SELECTION OF DESIGNATED INVESTOR. Requires the comptroller to solicit venture capital investment plans for investors and to select one designated investor based on certain criteria.

Sec. 483.053. FUND. Requires the designated investor to raise commitments of up to \$200 million to capitalize a private revolving fund established by the designated investor as provided by the plan and comptroller rules. Requires the designated investor to invest money in the fund in venture capital partnerships or other business investment entities in accordance with the plan.

Sec. 483.054. ANNUAL REPORT. (a) Requires the designated investor, during each year of operation of the plan, to prepare a report that includes certain information.

(b) Requires the designated investor to submit the annual report to certain individuals.

Sec. 483.055. TAX CREDIT. Requires the comptroller, for the designated investor to be eligible for a credit under Chapter 171V, Tax Code (Tax Credit for Venture Capital Investment), to certify that the designated investor incurred a loss for a reporting period of an amount equal to the unrealized anticipated returns of capital and returns on capital for that reporting period on investments made by the fund.

Sec. 483.056. RULEMAKING AUTHORITY. Requires the comptroller to adopt policies and rules as necessary to implement this chapter, including policies and rules that meet certain conditions.

SECTION 2. Amends Chapter 171, Tax Code, by adding Subchapter V, as follows:

#### SUBCHAPTER V. TAX CREDIT FOR VENTURE CAPITAL INVESTMENT

Sec. 171.901. DEFINITIONS. Defines “venture capital investment.”

Sec. 171.902. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies only to a designated investor that has incurred a loss certified by the comptroller under Section 843, Government Code (Venture Capital Investment), and any corporation to which credits are transferred.

Sec. 171.903. CREDIT. (a) Provides that a designated investor that meets the eligibility requirements under this subchapter is entitled to a credit in the amount allowed by this subchapter against the tax imposed under this chapter.

(b) Provides that, subject to Section 171.851, the amount of the credit is equal to the loss certified under Chapter 483, Government Code (Venture Capital Investment), for that reporting period and any carryforward credit under Section 171.904.

(c) Provides that the credit allowed or transferred pursuant to this section, upon election by a recipient or transferee at utilization, will be treated as a payment or prepayment in lieu of tax imposed under this chapter.

(d) Provides that the credits allowed or transferred pursuant to this section shall not be considered securities under Texas statutes.

Sec. 171.904. CARRYFORWARD. Authorizes the corporation to carry the unused credit forward for not more than five consecutive reports, if a corporation is eligible for a credit that exceeds the amount of tax due for the report.

Sec. 171.905. APPLICATION FOR CREDIT. (a) Requires a designated investor or a corporation to apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) Requires the comptroller to adopt a form for the application for the credit. Requires a designated investor or a corporation to use the form in applying for the credit.

Sec. 171.906. SALE OF UNUSED CREDIT. (a) Authorizes a designated investor or a corporation that has an unused credit or anticipates having an unused credit under this subchapter to apply to the comptroller to sell the credit to another corporation.

(b) Requires the comptroller to review applications under this section and to approve the sale or purchase of an unused credit under this subchapter unless the comptroller determines that the credit is not being purchased for money in an amount equal to at least 95 percent of its value.

Sec. 171.907. RULES. Requires the comptroller to adopt rules necessary to implement this subchapter.

SECTION 3. (a) Effective date: upon passage or September 1, 2003.

(b) Authorizes a designated investor or corporation to claim a credit under Chapter 171V, Tax Code, as added by this Act, only for a certified loss incurred on or after January 1, 2007.

(c) Requires the comptroller or any successor to the comptroller's duties to adopt rules under Chapter 483, Government Code, as added by this Act, not later than October 1, 2004.

(d) Requires the comptroller or any successor to the comptroller's duties to solicit venture capital investment plans from investors as required by Section 483.052, Government Code, as added by this Act, before November 1, 2004. Requires the comptroller or any successor to the comptroller's duties to select a designated investor as required by Section 483.052, Government Code, as added by this Act, not later than February 1, 2005.