

Regular Session, 2007

HOUSE BILL NO. 892

BY REPRESENTATIVE TOWNSEND

VETOED
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Veto Message

1 AN ACT

2 To amend and reenact R.S. 22:1068(E)(1)(a), (2)(d), and (3), and R.S. 51:1924(B)(2) and
3 (D)(1) and (6), 1926(A)(2), and 1931, relative to tax credits; to extend the periods
4 of certain tax credits; to provide relative to premium tax reductions for certain
5 insurers; to provide relative to the eligibility of the percentage of the tax reduction
6 on investments by certain insurers; to authorize the extension of the period of time
7 for tax reductions for certain investments; to provide relative to restrictions and
8 exceptions; to provide relative to the Louisiana Capital Companies Tax Credit
9 Program; to prohibit income tax credits resulting in the additional reduction of total
10 income tax revenues; to authorize the increase of total premium tax revenues which
11 qualify for insurance premium tax credits; to provide relative to investment pools;
12 to extend the termination date of the program; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 22:1068(E)(1)(a), (2)(d), and (3) are hereby amended and reenacted
15 to read as follows:

16 §1068. Reduction of tax when certain investments are made in Louisiana

17 * * *

18 E.(1)(a) Recognizing that it is also in the public interest to ensure sufficient
19 availability of venture capital for purposes of technological development and job
20 creation, the premium tax reduction for insurers investing in certified capital
21 companies as defined in R.S. 51:1921 et seq., or in industrial or economic
22 development corporations as defined in R.S. 12:951 et seq., shall be computed as one
23 hundred percent of the amount of the investment at the time the investment is made
24 if the investment is made prior to January 1, 2007, and eighty percent of the amount
25 of the investment at the time the investment is made if the investment is made after

1 investment and shall be applied to the premium tax liability not to exceed ten percent
 2 of the premium tax reduction in any one year until one hundred percent of the
 3 premium tax reduction has been claimed by the insurer, provided, in all cases, the
 4 reduction in any taxable year shall not exceed the premium tax liability for such
 5 taxable year. Notwithstanding the provisions of this Paragraph to the contrary, if a
 6 holder of premium tax reduction credits authorized under this Subsection does not
 7 use credits that are generated after December 31, 1999, and which are eligible to be
 8 used in a given calendar year, those premium tax reduction credits may be carried
 9 forward and used in any subsequent year until such credits are exhausted, provided
 10 the reduction in any taxable year shall not exceed the premium tax liability for such
 11 taxable year.

12 * * *

13 Section 2. R.S. 51:1924(B)(2) and (D)(1) and (6), 1926(A)(2), and 1931 are hereby
 14 amended and reenacted to read as follows:

15 §1924. Income tax credit or premium tax reduction

16 * * *

17 B.

18 * * *

19 (2) The total income tax credits granted in any calendar year shall not result
 20 in an additional reduction of total income tax revenues ~~of greater than two million~~
 21 ~~dollars.~~

22 * * *

23 D.(1) The total insurance premium tax credits granted pursuant to R.S.
 24 22:1068(E) in ~~any calendar year~~ each of 2007 and 2008 shall not result in an
 25 additional reduction of total premium tax revenues of greater than ~~five~~ six million
 26 dollars per year and in 2009 shall not result in an additional reduction of total
 27 premium tax revenues of greater than four million dollars per year.

28 * * *

29 (6) Each certified Louisiana capital company shall submit to the
 30 commissioner by the first day of September of each year a certified statement stating

1 the amount of certified capital that such company possesses that has not yet been
 2 invested to meet the sixty percent investment requirement of R.S. 51:1928(B)(1), if
 3 applicable; the amount of certified capital that such company possesses that has not
 4 been invested to meet the one hundred percent investment requirements of R.S.
 5 51:1928(B)(2) or (3), if applicable; and the amount of certified capital that such
 6 company possesses that has not been invested pursuant to other contractual
 7 agreements, if applicable. No certified Louisiana capital company group shall be
 8 eligible to submit a request on or before the first day of October of any calendar year
 9 for certified capital for which premium tax or income tax credits are allowed if, on
 10 the first day of September of such year, such certified Louisiana capital company
 11 group had certified capital, raised prior to January 1, 2007, in excess of fifteen
 12 million dollars that has not yet met the aforementioned investment requirements of
 13 R.S. 51:1928(B)(1), (2), or (3), or other such contractual agreements.

14 * * *

15 §1926. Requirements for continuance of certification

16 A. A certified Louisiana capital company is required to comply with all of
 17 the requirements of this Section in order to continue certification of its investment
 18 pools as certified capital. To continue the certification of any investment pools as
 19 certified capital, a certified Louisiana capital company must make qualified
 20 investments from each investment pool according to the following schedule:

21 * * *

22 (2) Within five years after the investment date for each investment pool, at
 23 least eighty percent of each investment pool must be invested, with at least fifty
 24 percent of each investment pool placed in qualified investments, provided, with
 25 respect to investment pools certified after January 1, 2002, (a) at least fifty percent
 26 of the amount required to be placed in qualified investments within five years after
 27 their respective investment dates must be or have been placed in qualified Louisiana
 28 technology-based businesses, qualified Louisiana start-up businesses, and/or
 29 qualified technology funds, with a minimum of fifty percent of such investments in
 30 qualified Louisiana technology-based businesses and (b) with respect to investment

1 pools certified prior to January 1, 2007, at least ten percent of the investment pool
2 must be or have been placed in qualified technology funds, qualified investments in
3 approved technology-based businesses, and/or qualified investments in research park
4 early stage businesses. With respect to investment pools certified after January 1,
5 2007, at least five percent of the investment pool must be or have been placed in
6 qualified technology funds, qualified investments in approved technology-based
7 businesses, and/or qualified investments in research park early stage businesses. The
8 qualified investments used to satisfy the ten percent requirement in this Paragraph
9 or five percent requirements in this Paragraph may also be used to satisfy the
10 investment requirements regarding investment pools certified after January 1, 2002,
11 as provided in Paragraphs (1) and (2) of this Subsection.

* * *

§1931. Program termination

14 The commissioner shall not certify a capital company to begin the program
15 later than June 30, ~~2003~~ 2009. The commissioner shall not certify capital later than
16 December 31, ~~2003~~ 2009, unless less than the maximum amount that could have
17 been certified in 2007 through 2009 was certified by the commissioner in such years.
18 If the commissioner fails to certify sufficient amounts in 2007 through 2009, the
19 commissioner may certify capital in subsequent years in accordance with the yearly
20 allocation provisions contained in this Section until the maximum amount of capital
21 permitted to be certified according to the provisions of R.S. 51:1924(D)(1) for 2007
22 through 2009 has been certified.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

House Bill No. 892 by Representative Townsend recreates the Capital Tax Credit Program (CAPCO), which provides a government subsidy in the form of a tax credit for investment companies combined with a tax reduction for insurance companies. The measure perpetuates a very expensive way for the state to provide risk capital to Louisiana businesses because for the maximum leverage for every dollar of CAPCO investment the state gives a 90% tax credit, thus taking the risk out of risk capital. Since the advent of the CAPCO program, there have been other incentive plans that have utilized tax credits for early stage seed and venture funding such as the Angel Investor Tax Credit Program. Additionally, Louisiana Economic Development Corporation, an arm of Louisiana Economic Development, has funded early stage investment funds for Louisiana and has seen some early stage success from that funding in the areas of university technology development. The state is currently liable for tax credits earned by the previous CAPCO program that expired in 2003 of approximately \$45 million. This legislation adds an additional price tag, for just the CAPCO portion, of up to \$232 million over 12 years.

For these reasons, I am vetoing House Bill No. 892 and returning it to the House of Representatives.