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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 744 Session of  
2023

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INTRODUCED BY ABNEY, MADDEN, KINSEY, GUENST, PROBST,  
D. WILLIAMS, HILL-EVANS, MALAGARI, SANCHEZ, WAXMAN, CEPEDA-  
FREYTIZ, SCHLOSSBERG, N. NELSON, DEASY, MERSKI, CONKLIN,  
SIEGEL, MADSEN, BOROWSKI, HANBIDGE AND INNAMORATO,  
MARCH 28, 2023

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REFERRED TO COMMITTEE ON COMMERCE, MARCH 28, 2023

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AN ACT

1 Amending the act of July 2, 1984 (P.L.555, No.111), entitled "An  
2 act creating a small business incubator program; providing  
3 for grants, loans and loan guarantees to small business  
4 incubators; specifying the conditions of and requirements for  
5 grants and loans; providing for seed grants; and making  
6 appropriations," further providing for definitions, for  
7 creation of program, for incubator grants, loans and loan  
8 guarantees and for responsibilities of local sponsors;  
9 repealing provisions relating to challenge grants for seed  
10 capital funds; further providing for general powers and  
11 duties of the board and for indicators of program impact;  
12 providing for funding sources; repealing provisions relating  
13 to time limit on approvals; and making a repeal.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. The definitions of "local sponsor" or "sponsor"  
17 and "seed capital fund" in section 2 of the act of July 2, 1984  
18 (P.L.555, No.111), known as the Small Business Incubators Act,  
19 are amended and the section is amended by adding a definition to  
20 read:

21 Section 2. Definitions.

22 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 \* \* \*

4 "Applicant." A local sponsor.

5 \* \* \*

6 "Local sponsor" or "sponsor." An organization which enters  
7 into a written agreement with the board to establish, operate  
8 and administer a small business incubator facility or to provide  
9 funding to an organization which operates such a facility,  
10 including municipalities, local development districts of the  
11 Appalachian Regional Commission, industrial and commercial  
12 development authorities established [pursuant to] under the act  
13 of August 23, 1967 (P.L.251, No.102), known as the [Industrial  
14 and Commercial Development Authority Law] Economic Development  
15 Financing Law, redevelopment authorities established [pursuant  
16 to the act of May 24, 1945 (P.L.991, No.385), known as the Urban  
17 Redevelopment Law, municipal authorities organized pursuant to  
18 the act of May 2, 1945 (P.L.382, No.164), known as the  
19 Municipality Authorities Act of 1945] under 53 Pa.C.S. Ch. 56  
20 (relating to municipal authorities), or any private nonprofit or  
21 for-profit organization approved by the board, including Ben  
22 Franklin Technology Partners.

23 ["Seed capital fund." A special investment vehicle which  
24 provides equity and other capital to small businesses during the  
25 earliest stages of business growth, including businesses in  
26 incubators.]

27 \* \* \*

28 Section 2. Section 3 of the act is amended to read:

29 Section 3. Creation of program.

30 There is hereby established under the direction of the board

1 a Statewide grant, loan and loan guarantee program for the  
2 establishment, operation and administration of small business  
3 incubators, to be known as the Small Business Incubator Program.

4 Section 3. Section 4(a)(3) and (4) and (c)(1) and (2) of the  
5 act are amended and subsection (c) is amended by adding a  
6 paragraph to read:

7 Section 4. Incubator grants, loans and loan guarantees.

8 (a) Application.--A local sponsor may submit an application  
9 to the board to obtain a grant, loan or loan guarantee to  
10 establish an incubator. Each application shall:

11 \* \* \*

12 (3) Demonstrate a potential for sustained use of the  
13 incubator facility by eligible tenants, through a market  
14 study or [other means] business plan that identifies  
15 sustainability.

16 (4) Demonstrate the ability to manage and operate the  
17 incubator facility in accordance with section 5, including  
18 ongoing financial responsibilities.

19 \* \* \*

20 (c) Grant and loan conditions.--

21 (1) Grants and loans awarded or guaranteed shall be used  
22 only for the acquisition and leasing of land and buildings,  
23 the construction, rehabilitation and expansion of buildings  
24 or other facilities [and], the purchase of equipment and  
25 furnishings and operational funds not to exceed 20% of the  
26 award, which are necessary for the creation and operation of  
27 the incubator.

28 (2) Grants, loans and loan guarantees may not exceed  
29 [50%] 80% of total eligible project costs, or [\$650,000]  
30 \$800,000, whichever is less. The maximum grant amount awarded

1 in any project may not exceed [\$240,000. Grants shall be  
2 provided only to projects located in municipalities  
3 designated as distressed under the act of July 2, 1984  
4 (P.L.520, No.105), known as the Business Infrastructure  
5 Development Act.] 20% of the award.

6 \* \* \*

7 (8) If a business operating within an incubator that is  
8 administered by a local sponsor relocates outside of this  
9 Commonwealth or transfers an ownership interest to an entity  
10 located outside of this Commonwealth, the business shall  
11 repay the local sponsor the full value of services and  
12 assistance the business has received that were funded by  
13 grants, loans or guaranteed loans received by the local  
14 sponsor under this act. If the local sponsor does not utilize  
15 repaid funds to provide services to other businesses in the  
16 incubator, the local sponsor shall return the funds to the  
17 board. If a local sponsor transfers ownership of an incubator  
18 to an entity located outside of this Commonwealth, the local  
19 sponsor shall return all grant funds awarded under this act  
20 to the board.

21 Section 4. Section 5(8) and (9) of the act are amended to  
22 read:

23 Section 5. Responsibilities of local sponsors.

24 A local sponsor, or the organization receiving assistance  
25 through the local sponsor, shall have the following  
26 responsibilities and duties in establishing and operating an  
27 incubator with assistance from this program:

28 \* \* \*

29 [(8) Establish policies and criteria for the acceptance  
30 of tenants into the incubator. Retail enterprises, not-for-

1 profit enterprises (except not-for-profit enterprises engaged  
2 in research and development), wholesale enterprises and  
3 personal service enterprises are not permitted as tenants in  
4 incubators funded through this act. Up to 20% of the useful  
5 square footage of such a facility shall be occupied by an  
6 anchor tenant who does not meet these eligibility  
7 requirements.

8 (9) Establish a local advisory committee to assist in  
9 the performance of these functions.]

10 Section 5. Section 6 of the act is repealed:

11 [Section 6. Challenge grants for seed capital funds.

12 (a) Purpose.--The board is authorized to award challenge  
13 grants for the purposes of establishing seed capital funds to  
14 assist young small businesses, including businesses in  
15 incubators, to create new jobs in this Commonwealth.

16 (b) Application.--Advanced technology centers or other  
17 organizations approved by the board may submit applications to  
18 receive challenge grants to assist in establishing seed capital  
19 funds. Each application shall:

20 (1) Describe the purposes of the proposed seed capital  
21 fund, including the types of businesses to receive  
22 investments and the types of investments to be made,  
23 consistent with subsection (c).

24 (2) Explain the need for the challenge grant in  
25 attracting private investment to the proposed seed capital  
26 fund.

27 (3) Present a plan for establishing the proposed seed  
28 capital fund, including the amount of private investment  
29 sought, the strategy for obtaining such investments and the  
30 persons or organizations who may manage the fund.

1 (4) List private investment commitments obtained to  
2 date.

3 (c) Use of funds.--The board may award challenge grants to  
4 eligible applicants following receipt of an application  
5 consistent with the criteria specified in this act. Recipients  
6 of grants shall not expend any of the funds awarded unless and  
7 until the board has assured itself that the following conditions  
8 hold:

9 (1) Either:

10 (i) at least \$3 of private investment has been  
11 committed to the proposed seed capital fund for every \$1  
12 of the challenge grant awarded and at least \$3,000,000 of  
13 total investment, including the challenge grant, has been  
14 committed to the proposed fund; or

15 (ii) at least \$1 of private investment has been  
16 committed to the proposed seed capital fund for every \$1  
17 of the challenge grant awarded; at least \$1.5 million of  
18 total investment, including the challenge grant, has been  
19 committed to the seed capital fund; and no investment is  
20 to be made from the fund in a small business project  
21 without an equal or greater investment from private  
22 sources other than the fund in the same small business  
23 project, such that, in total, at least \$3 of private  
24 investment has been committed to an individual small  
25 business project for every \$1 of challenge grant funds  
26 invested.

27 (2) Investments from the seed capital fund will be made  
28 exclusively in small businesses located in this Commonwealth,  
29 including, but not limited to, tenants of incubators. For the  
30 purposes of this section, small businesses shall not include

1 businesses of a mercantile or services related nature, but  
2 shall include international export related services,  
3 international export related mercantile ventures and advanced  
4 technology or computer related ventures which will increase  
5 the Commonwealth's share of domestic or international  
6 markets.

7 (3) Total investments in a small business using seed  
8 capital funds should ordinarily be less than \$250,000 during  
9 any round of financing for a small business.

10 (4) The grant recipient shall serve as a limited partner  
11 or coinvestor with limited liability in the proposed fund and  
12 returns on investment of challenge grant funds shall be  
13 reinvested in the seed capital fund.

14 In the event that recipients of funds cannot demonstrate these  
15 conditions by June 30, 1986, the grants, or the portions thereof  
16 for which the conditions are not satisfied, shall be rescinded  
17 by the board and shall be available to the board to use for  
18 loans and loan guarantees to incubators consistent with section  
19 4.]

20 Section 6. Sections 7 and 8(8) of the act are amended to  
21 read:

22 Section 7. General powers and duties of the board.

23 The board shall:

24 (1) Adopt such rules, statements of policy, procedures,  
25 forms and guidelines as may be necessary for the  
26 implementation of this act, including the encouragement of  
27 incubators in economically distressed areas such as State or  
28 federally designated enterprise zones[, municipalities which  
29 meet criteria for distress as identified in section 6 of the  
30 act of July 2, 1984 (P.L.520, No.105), known as the Business

1     Infrastructure Development Act,] and urban renewal areas  
2     designated in conformity with the act of May 24, 1945  
3     (P.L.991, No.385), known as the Urban Redevelopment Law:  
4     Provided, That it is not the intent of this act to limit the  
5     establishment of incubators to such economically distressed  
6     areas.

7             (2) Make loans and loan guarantees or grants or a  
8     combination of loans and grants to local sponsors for  
9     incubators [and award seed capital challenge grants] and, in  
10    the sole discretion of the board, provide for the conversion  
11    of any liens [issued on or after November 1, 1985,] into  
12    grants or into a combination of grants and loans.

13            (3) Ensure that local sponsors receiving loans or loan  
14    guarantees and recipients of [challenge] grants meet the  
15    conditions of this act.

16            (4) Receive and evaluate annual reports from local  
17    sponsors. The annual reports shall include, but not be  
18    limited to, a financial statement for the incubator, evidence  
19    that all tenants in the facility are eligible under the terms  
20    of the legislation and a list of companies in the incubator.

21            [(5) Receive and evaluate annual reports from recipients  
22    of seed capital challenge grants. The reports shall include,  
23    but not be limited to, the policies and procedures of the  
24    seed capital fund, the amount of private investment in the  
25    fund and the number, types and amounts of investment in small  
26    firms by the fund.]

27    Section 8. Indicators of program impact.

28            On or before March 1 of each year, the board shall provide a  
29    report to both the Chief Clerk of the House of Representatives  
30    and the Secretary of the Senate which shall include, but not be



1 limited to:

2 \* \* \*

3 [(8) The number of seed capital funds established with  
4 challenge grants, the amount of private investment in the  
5 funds and the number, types and amounts of investments in  
6 small firms by the funds.]

7 Section 7. The act is amended by adding a section to read:

8 Section 10.1. Funding sources.

9 (a) Authority.--Consistent with 64 Pa.C.S. § 1543 (relating  
10 to indebtedness), the Commonwealth Financing Authority shall  
11 have the authority to incur indebtedness, in the aggregate, as  
12 follows:

13 (1) Not to exceed \$20,000,000 for programs established  
14 under this act.

15 (2) Not to exceed \$80,000,000 for the program  
16 established under 64 Pa.C.S. § 1556 (relating to Tax  
17 Increment Financing Guarantee Program).

18 (b) Indebtedness.--The following apply to proceeds of the  
19 indebtedness authorized under subsection (a)(1):

20 (1) The proceeds shall be deposited into a restricted  
21 account in the Ben Franklin Technology Development Authority  
22 Fund and transferred from the authority to the board to be  
23 used for programs established under this act.

24 (2) The money in the restricted account is  
25 appropriated to the board, on a continuing basis, to be used  
26 for programs established under this act. This appropriation  
27 shall not lapse at the end of any fiscal year.

28 Section 8. Section 12 of the act is repealed:

29 [Section 12. Time limit on approvals.

30 No assistance under section 4 shall be approved by the board

1 after June 30, 1990.]

2 Section 9. Repeals are as follows:

3 (1) The General Assembly declares that the repeal under  
4 paragraph (2) is necessary to effectuate the addition of  
5 section 10.1(a)(2) of the act.

6 (2) 64 Pa.C.S. § 1543(b)(7) is repealed.

7 Section 10. This act shall take effect in 60 days.