§1026-T. Innovation finance program

1. Established. The authority may create and oversee a state innovation finance program, referred to in this section as "the program," to increase the supply of venture capital to the economy of the State by improving access by innovative businesses in this State to venture capital funds. Investment performance of the program may be partially guaranteed by refundable tax credits issued by the authority to the retirement system. This section does not mandate or require any investment by the retirement system or give the retirement system any economic development responsibilities, its sole responsibility being to safeguard, invest and increase retirement system assets consistent with its fiduciary duty to its members.
[PL 2009, c. 633, §4 (NEW).]

2. Investment goal; guidelines. The goal of the program is to attract more venture capital to innovative businesses in this State by providing the retirement system with an incentive to invest in high-quality venture capital funds that evidence both a commitment to seeking investments in the State and the ability to produce favorable returns to minimize the risk of tax credit redemption. Consistent with this investment goal, the retirement system may, in the exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the retirement system, apply to the authority for approval under the program for proposed investments in venture capital funds. The authority may approve such a proposed venture capital fund investment under the program if it determines that the venture capital fund will give strong consideration to investing in businesses in this State that fall within the targeted technologies. In making this decision, the authority shall consider whether the venture capital fund:

A. Will maintain at least a periodic presence in the State; [PL 2009, c. 633, §4 (NEW).]

B. Will build linkages to, and accept referrals from, at least some of the organizations promoting the State's innovation economy, including the authority, the Maine Technology Institute under Title 5, section 15302, the Small Enterprise Growth Fund under section 383, the Department of Economic and Community Development, the Maine Patent Program under section 1921, the University of Maine System and other venture capital investors within the State; [PL 2009, c. 633, §4 (NEW).]

C. Will actively prospect for investments in the State; [PL 2009, c. 633, §4 (NEW).]

D. Expresses a commitment to seek investments in businesses in this State that meet its investment criteria; and [PL 2009, c. 633, §4 (NEW).]

E. Demonstrates the ability to make successful venture capital investments. [PL 2009, c. 633, §4 (NEW).]

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3. Investment restrictions. Investments under the program are governed by this subsection.

A. The retirement system may not invest directly in individual businesses under this program but may invest only in venture capital funds that are managed to best achieve the purpose set out under subsection 2. [PL 2009, c. 633, §4 (NEW).]

B. No more than $4,000,000 of tax credits may be placed at risk with respect to any single commitment to a venture capital fund. [PL 2009, c. 633, §4 (NEW).]

C. The retirement system may cooperate with the authority and other organizations promoting the State’s innovation economy by encouraging participating venture capital funds to consider investments in this State consistent with their investment strategies. The retirement system may at any time be relieved of this obligation by releasing the State from its obligations under all outstanding tax credit certificates issued under the program. [PL 2009, c. 633, §4 (NEW).]

[PL 2009, c. 633, §4 (NEW).]

4. Refundable tax credits. The authority may issue to the retirement system certificates of up to $20,000,000 in refundable tax credits as provided by Title 36, section 5219-EE to serve as partial security against a loss of capital under the program. Certificates must be issued to expire no later than July 1, 2028.

A. Refundable tax credits as authorized by this subsection may be redeemed only as necessary to offset 80% of any realized loss of capital in the program. [PL 2009, c. 633, §4 (NEW).]

B. A certificate of tax credits issued by the authority under this section is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once issued, as long as the retirement system is not in default under its agreement with the authority with respect to any certificate of tax credits, the certificate may not be modified, terminated or rescinded until the certificate expires, is redeemed or is released by the retirement system. [PL 2009, c. 633, §4 (NEW).]

C. The authority shall register each refundable tax credit under this section with the Department of Administrative and Financial Services, Bureau of Revenue Services. The retirement system shall report annually to the authority on the status and valuation of investments secured by the certificate of tax credits and such other information as may be required pursuant to an agreement between the retirement system and the authority. The report must include details of capital calls and distributions. [PL 2009, c. 633, §4 (NEW).]

D. A refundable tax credit allowed pursuant to this section is not a security under Title 32, chapter 135. [PL 2009, c. 633, §4 (NEW).]

E. On the final liquidation of a venture capital fund for which a certificate of tax credits has been issued, the retirement system shall notify the authority of termination of the investment and certify the amount of any loss. The authority may request such information or documentation from the retirement system as it determines reasonably necessary to confirm the amount of any loss and shall promptly certify any capital loss to the Department of Administrative and Financial Services, Bureau of Revenue Services. Upon submission by the authority, the bureau shall redeem registered credits as necessary to pay 80% of the loss certified by the authority up to a maximum payment of $4,000,000 with respect to any single venture capital fund investment or an aggregate loss under the program of $20,000,000. For purposes of this subsection, "loss" means the total amount of investment by the retirement system into the venture capital fund less the total value of all distributions received by the retirement system from such venture capital fund, as determined by the authority. [PL 2009, c. 633, §4 (NEW).]

F. Nothing in this section may be construed to place the assets of the authority at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State, and this section may not be construed to require or mandate the retirement system to make any investments under the program. [PL 2009, c. 633, §4 (NEW).]

G. The authority may charge the retirement system reasonable fees for the cost of implementing and administering the program and any tax credits authorized by this section, not to exceed the authority's out-of-pocket costs plus an annualized fee not to exceed 1% of the outstanding balance of tax credits. In addition, the authority may assess a reasonable program fee from gains received by the retirement system from investments under the program. Any such fees are subject to the approval of the retirement system and the authority. [PL 2009, c. 633, §4 (NEW).]

[PL 2009, c. 633, §4 (NEW).]

SECTION HISTORY

PL 2009, c. 633, §4 (NEW).