By:  Alvarado S.B. No. 678

(In the Senate - Filed February 12, 2021; March 11, 2021, read first time and referred to Committee on Finance; April 14, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 14, Nays 1; April 14, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Nelson               X

Lucio                X

Bettencourt          X

Buckingham           X

Campbell             X

Creighton            X

Hancock              X

Huffman              X

Kolkhorst            X

Nichols                  X

Perry                X

Schwertner           X

Taylor               X

West                 X

Whitmire             X

COMMITTEE SUBSTITUTE FOR S.B. No. 678 By:  Whitmire

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the small business disaster recovery loan program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 403, Government Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM

Sec. 403.501.  DEFINITIONS. In this subchapter:

(1)  "Disaster declaration" means a declaration by the governor of a state of disaster under Section 418.014.

(2)  "Fund" means the small business disaster recovery revolving fund created under Section 403.506.

(3)  "Small business" has the meaning assigned by Section 481.401.

(4)  "Trust company" means the Texas Treasury Safekeeping Trust Company.

Sec. 403.502.  SMALL BUSINESS DISASTER RECOVERY LOAN PROGRAM. (a) The comptroller by rule shall establish a loan program to use money from the fund established under this subchapter to provide financial assistance to small businesses affected by a disaster.

(b)  The comptroller may provide financial assistance from the fund only:

(1)  in the form of a loan to an eligible small business that is located in an area under a disaster declaration; and

(2)  during the period for which the disaster declaration is in effect.

(c)  The comptroller shall credit to the fund all principal and interest payments on a loan from the fund.

Sec. 403.503.  ELIGIBILITY FOR LOAN. The comptroller by rule shall establish the eligibility requirements for a loan to a small business under this subchapter. The requirements must include that the small business:

(1)  is in good standing under the laws of this state;

(2)  does not owe delinquent taxes to a taxing unit of this state;

(3)  has suffered physical damage or economic injury as a result of the event leading to the disaster declaration; and

(4)  has paid in full any previous loans received under this subchapter.

Sec. 403.504.  USES OF LOAN. An eligible small business may only use a loan received under this subchapter to pay the small business's payroll costs, including  costs related to the continuation of health care benefits for the small business's employees.

Sec. 403.505.  APPLICATION FOR LOAN. The comptroller shall develop and implement an application process for an eligible small business to receive a loan under this subchapter.

Sec. 403.506.  SMALL BUSINESS DISASTER RECOVERY REVOLVING FUND. (a)  The small business disaster recovery revolving fund is a special fund outside the state treasury to be used by the comptroller, without further legislative appropriation, for the purpose of providing financial assistance to small businesses in response to a disaster declaration as provided by this subchapter. The comptroller shall administer the fund. The comptroller may establish separate accounts in the fund. The fund and the fund's accounts are kept and held by the trust company in escrow and in trust for and in the name of the comptroller. The comptroller has legal title to money and investments in the fund until money is disbursed from the fund as provided by this subchapter and comptroller rules.

(b)  Money deposited to the credit of the fund may be used only as provided by this subchapter.

(c)  The fund consists of:

(1)  money transferred or deposited to the credit of the fund by law, including money from any source transferred or deposited to the credit of the fund at the comptroller's discretion as authorized by law;

(2)  the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3)  any other revenue that the legislature by statute dedicates for deposit to the credit of the fund; and

(4)  investment earnings and interest earned on amounts credited to the fund.

Sec. 403.507.  MANAGEMENT AND INVESTMENT OF FUND. (a) The trust company shall hold and invest the fund, and any accounts established in the fund, for and in the name of the comptroller, taking into account the purposes for which money in the fund may be used. The fund may be co-invested with the state treasury pool.

(b)  The overall objective for the investment of the fund is to maintain sufficient liquidity to meet the needs of the fund while striving to preserve the purchasing power of the fund. It is the intent of the legislature that the fund remain available in perpetuity for the purposes of this subchapter.

(c)  The trust company has any power necessary to accomplish the purposes of managing and investing the assets of the fund. In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(d)  The trust company may recover the costs incurred in managing and investing the fund only from the earnings of the fund.

(e)  The trust company annually shall report to the comptroller with respect to the investment of the fund. The trust company shall contract with a certified public accountant to conduct an independent audit of the fund annually and shall present the results of each annual audit to the comptroller. This subsection does not affect the state auditor's authority to conduct an audit of the fund under Chapter 321.

(f)  The trust company shall adopt an investment policy that is appropriate for the fund. The trust company shall present the investment policy to the investment advisory board established under Section 404.028. The investment advisory board shall submit to the trust company recommendations regarding the policy.

(g)  The comptroller annually shall provide to the trust company a forecast of the cash flows into and out of the fund. The comptroller shall provide updates to the forecasts as appropriate to ensure that the trust company is able to achieve the objective specified by Subsection (b).

(h)  The trust company shall disburse money from the fund as directed by the comptroller.

Sec. 403.508.  RULES. The comptroller shall adopt rules necessary to implement this subchapter.

Sec. 403.509.  REPORT. Not later than December 1 of each even-numbered year, the comptroller shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes:

(1)  the balance of the fund as of the date of the report;

(2)  the total dollar amount of disbursements from the fund during the two-year period preceding that date; and

(3)  a general description of each small business for which an applicant was awarded a loan from the fund during the two-year period preceding that date.

SECTION 2.  The comptroller of public accounts and the Texas Treasury Safekeeping Trust Company are required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the comptroller and the trust company may, but are not required to, implement a provision of this Act using other appropriations that are available for that purpose.

SECTION 3.  This Act takes effect September 1, 2021.

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