

Venture Capital Bill: Too Far, Too Fast?

By Keith Girrard of AllBusiness.com

The late Barber Conable Jr., who served nine terms in the House of Representatives, once said that Congress "should drag its heels on the way to decision."

In fact, he said, that's how the Founding Fathers meant Congress to work. "They understood that if you move too quickly, our democracy will be less responsible to the majority," he explained.

His words came to mind last week, as House Small Business Committee Chairman Nydia Velázquez, D-N.Y., ramrodded a controversial bill through the House that would open up all Small Business Administration programs to firms substantially owned by venture capital companies.

It took all of 10 days for the bill to move from introduction to passage by the full House. If that's not a record, it has to be close to one. Whatever the merits of the bill, the speed at which it breezed through the legislative process is enough to raise eyebrows.

What's the hurry?

When it comes to the legislative process, there is such a thing as "too far, too fast," especially on an issue like this. The bill not only faces stiff opposition from a number of small business groups, but from the Small Business Administration as well. What's more, it will affect how the government awards billions of dollars in federal grants and contracts earmarked for small companies.

The measure, known as the Small Business Investment Expansion Act of 2007 (HR 3567) cleared the House last Friday (Sept. 28) by a 325 to 72 vote. It's doubtful that most members knew what they were voting on; they certainly had no time to hear from their constituents. I'm told that lawmakers were convinced to vote for the bill after one of its opponents, Rep. Steve Chabot, R-Ohio, introduced an amendment that was added to the bill on the House floor.

The amendment prohibits a business from being considered "small" if a venture capital firm owns more than 50 percent of the company, or if the VC firm's employees constitute a majority of the board of directors. The amendment is designed to preserve the intent of the Small Business Act, which states that a business must be "independently owned and operated" to qualify for government programs. But as loopholes go, it leaves a lot of room for venture capital firms to wiggle through.

For example, VC firms often form a consortium to invest in small firms. While no one VC firm may own a majority of the company, the consortium may own well over 50 percent of the company. Yet they would still meet the terms of the Chabot amendment.

Given the high stakes attached to the measure, supporters and their legislative proxies may have done themselves a disservice by rushing the bill through the House. At the bill's hearing, opponents outside of the SBA were not even represented. Fortunately, the measure now goes to the Senate for further consideration.

As lawmakers take up the bill in the Senate, they should pause for moment to remember Barber Conable, who was known for honesty and integrity. Once he was even named by his colleagues

as the "most respected" member of Congress. No one likes an exasperating or exhaustive debate but as Conable would say, they "are frequently the handmaidens of legislative decision."

Let's hope Senate small business committee Chairman John Kerry, D-Mass., follows his example, and gives this measure the full consideration it deserves. The memory of Barber Conable, not to mention democracy, would be well served.