

SUBJECT: Higher education institutions investing in technology commercialization

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 6 ayes — J. Davis, Vo, Y. Davis, Perez, E. Rodriguez, Workman
0 nays
3 absent — Bell, Isaac, Murphy

WITNESSES: For — Brett Cornwell, Texas A&M System; (*Registered, but did not testify*: Bill Hammond, Texas Association of Business; Wendy Reilly, TechAmerica)
Against — None
On — Bryan Allinson, The University of Texas System

BACKGROUND: Education Code, sec. 153.006 allows public institutions of higher education to accept, in exchange for certain intellectual property rights, equity interests in companies created through their centers for technology development and transfer. These institutions of higher education can also accept equity interests in these companies as consideration for the provision of monetary, business, scientific, engineering, or other technical services.

DIGEST: CSHB 2051 would amend Education Code, sec. 153.006 to allow public institutions of higher education to accept a convertible debt instrument in exchange for intellectual property rights. Convertible debt also would be acceptable consideration for a higher educational institution's provision of monetary, business, scientific, engineering, or other technical services. In either transaction, a combination of convertible debt and equity also would be acceptable consideration.

SUPPORTERS SAY: CSHB 2051 would provide another tool for universities to achieve the goal of commercializing intellectual property. As companies are newly created to successfully commercialize a university's research, providing a university stock ownership can present problems. In many cases, newly

created companies have not yet undergone an independent valuation. Therefore, universities should have the option of gaining an investment position in these early stage companies by accepting convertible debt until the companies are valued at a later time.

There are differing opinions as to whether universities can accept convertible debt from companies under current state law. With the Emerging Technology Fund, for example, convertible debt investments are permitted to incentivize companies collaborating with research institutions. The bill would make clear in statute that universities could use this option. This change would further the research efforts of higher education institutions and spur economic development through increased technology commercialization.

Faculty interested in performing research and teaching at Texas universities would go elsewhere if the bill sought to develop financial metrics for evaluating the productivity of research. Critics who favor developing such a metric do not appreciate the strong link between teaching and research. It would be extremely difficult to separate the teaching and research functions of professors and independently measure the productivity of each. In addition, basic research frequently involves early stage discoveries that, while profound, may not result in a commercial product in the near term. The fact that basic research may not yield immediate financial return in no way diminishes the value of a researcher's work.

OTHER
OPPONENTS
SAY:

While higher education research leading to important discoveries should be encouraged, productivity in this area is lacking at Texas universities. On a number of Texas campuses, the income from patents does not even cover the costs of running centers for technology development and transfer. Before encouraging further investment in technology commercialization, the bill should require universities to develop measures to evaluate the return on student- and taxpayer-financed faculty time spent on research.

NOTES:

CSHB 2051 differs from the bill as filed in that the committee substitute would allow higher education institutions to also accept a combination of convertible debt and equity.