

**SUBJECT:** Creating tax incentives for commercializing university research

**COMMITTEE:** Government Transparency and Operation — committee substitute recommended

**VOTE:** 6 ayes — Elkins, Walle, Galindo, Gonzales, Leach, Scott Turner

0 nays

1 absent — Gutierrez

**WITNESSES:** For — Shawn Cloonan, Texas Medical Center; (*Registered, but did not testify*: Fred Shannon, Hewlett Packard, Texas Association of Manufacturers; Martin Hubert, Rice University; Sarah Matz, TechAmerica)

Against — None

On — Mark Clarke, University of Houston; Julie Goonewardene, University of Texas System; (*Registered, but did not testify*: Sharon Hersh, Comptroller of Public Accounts)

**DIGEST:** CSHB 590 would allow the formation of for-profit special purpose corporations created to commercialize research conducted at universities and medical research facilities in the state. The bill would exempt these research technology corporations from property, sales, and franchise taxes for the 15-year lifespan of these companies.

**Requirements.** The bill would allow individuals to form a university research technology corporation for the exclusive purpose of commercializing technology developed and wholly or partly owned by an eligible university or medical center. To create a qualifying company, the founder would have to license the technology from the institution. The license could be contingent on the formation of the university research technology corporation. Companies whose activities extended beyond commercializing the licensed technology would not be eligible to become

research technology corporations.

The research institution that licensed a technology to a university research technology corporation would have to be a shareholder at the company's inception and throughout its life in order for the company to qualify for the exemptions. The research institution could license any technology it owned to an affiliated research technology corporation.

University research technology corporations would have to be based in Texas, and more than 50 percent of any good produced or services performed would have to take place in the state.

The bill would limit the duration of university research technology corporations to 15 years. At the end of that period, the company could refile as a for-profit entity. The organizers of a university research technology corporation would be required to file the necessary documentation with the comptroller's office. A corporation that refiled would not be governed by other provisions in the bill, except that the corporation would be required to comply with Education Code, sec. 157.008 to obtain a tax exemption and would be subject to penalties described in Education Code, sec. 157.009 for noncompliance with corporate requirements.

**Tax exemptions.** The bill would provide tax exemptions for university research technology corporations. In order to qualify for the tax exemptions, a company would have to be based in Texas and engage exclusively in commercializing and developing technologies owned by an institution of higher education or a medical center. The bill would exempt qualifying companies from property taxes, sales and use tax, and the franchise tax.

Companies would be required to keep records of all of the taxes from which they had been exempted. If a university technology research corporation ceased to operate in Texas or ceased to do more than 50 percent of its business in Texas, it would be liable for the taxes from which it had been exempt the four calendar years preceding the year when

noncompliance began. These penalties would be deposited in the general revenue fund. The comptroller would adopt rules to implement and administer the tax exemption.

A university research technology corporation would not be entitled to a property tax exemption on property that was owned by the corporation's organizer or director before the corporation's creation and was subject to taxation before becoming a university research technology corporation.

The bill would take effect January 1, 2016. The provisions that would exempt from taxation certain property of university research technology corporations would take effect following voter approval of CSHJR 64 by Elkins and would apply beginning in tax year 2016.

**SUPPORTERS  
SAY:**

CSHB 590, in conjunction with voter approval of CSHJR 64 by Elkins, would create a more favorable tax environment in which to encourage the development and commercialization of technology by Texas institutions of higher education. Although Texas generally has a regulatory climate favorable to business, many startups that make use of university patents have moved out of state to seek more advantageous tax treatment of their investments. The proposed amendment would allow the Legislature to address this drain of university intellectual property by offering incentives for startups partnering with universities.

Together with CSHJR 64, CSHB 590 would help support economic development by putting university or medical research to commercial use without any cash outlays from the state. This incentive program could help faculty recruitment by creating a potentially lucrative outlet for their research.

The bill would not lead university administrations to emphasize commercial research because universities already are aware of the need to find commercial uses for the patents and technologies they develop. This bill and proposed amendment merely would channel those efforts in the most productive way for Texas.

Because universities would be shareholders of university research technology corporations, the revenue these corporations brought in could be used to fund universities' centers for technology development and transfer, which facilitate public-private partnerships between universities and industry or investors. In addition, universities could license the technologies to the university research technology corporations, and the license fees also could be used to support centers for technology development and transfer.

Although tax revenue might decline somewhat at first, the tax breaks enabled by the joint resolution would pay for themselves during the 15-year life of the university research technology corporations because of the ancillary businesses that would emerge as a result of the commercialized research and technology.

OPPONENTS  
SAY:

CSHB 590 would enable legislation that could reduce revenue available to local governments and school districts. The Legislature should be mindful of the joint resolution's potential impact on these local taxing entities, particularly school districts that would be held harmless for such losses at state expense.

University income from patents does not cover the costs of running centers for technology development and transfer. Before encouraging further commercialization of university research, the Legislature should develop metrics to better understand the benefits commercialization may offer for universities and students.

CSHB 590 inappropriately would create tax breaks to support university research. Many Texans have concerns about certain types of research conducted at some universities, and such research should not be encouraged by tax exemptions provided by the state.

NOTES:

CSHJR 64 by Elkins, the joint resolution that would authorize the Legislature to exempt from taxation certain property of university research technology corporations, appears on today's Constitutional Amendments Calendar.

The author intends to offer a floor amendment striking the language that would permit research technology companies to refile for their status after 15 years.

The Legislative Budget Board's fiscal note estimates an indeterminate cost to the state and units of local government depending on the number of special-purpose corporations that might be formed under the bill and the extent of their business activities.