

BILL ANALYSIS

Senate Research Center
79R15557 CLG-D

C.S.H.B. 1938
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S/C on Emerging Technologies & Economic Development
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 78th Legislature, Regular Session, 2003, enacted S.B. 1771, creating the Texas Enterprise Fund (fund), a \$285 million deal-closing fund to be used by the state in negotiations to bring new business expansion to Texas when a competitive situation exists with other states. The fund is used to supplement local incentives and other state programs when competing for new jobs and investment. Since the program's inception, the fund has assisted in grants that are projected to create about 20,000 jobs and more than \$6 billion in direct economic investment in Texas.

To receive funding from the fund, the governor, lieutenant governor, and speaker of the house of representatives (speaker) must unanimously agree to support an application for a project. An application must be submitted for each specific project which is reviewed for a possible grant. The Governor's Division on Economic Development and Tourism provides additional research on the specific application and any additional background needed for review by the three offices. The offices may also seek additional advice from members of the Advisory Board of Economic Development Stakeholders which was also created in S.B. 1771. The seven member board has three members appointed by the governor, two appointed by the lieutenant governor, and two appointed by the speaker. After an award is announced, the governor's office and the grant recipient negotiate a contract with specific job and investment targets and a schedule for their performance.

During the interim, the Legislative Budget Board (LBB) examined the use of the fund and compared it to deal-closing funds in other states. The LBB Staff Performance Report to the 79th Legislature expressed concerns regarding the need for higher accountability standards for grant recipients on job creation and investment goals and the lack of a report on grant allocations, activities, and performances. The LBB made certain recommendations based on its findings.

C.S.H.B. 1938 was drafted to address the recommendations by the LBB. C.S.H.B. 1938 requires the governor to enter into a written agreement with potential grant recipients with specific terms and conditions of the award and ensure full financial accountability to the state for funds and repayment of the funds and penalties for noncompliance. The bill also requires the governor's office to report to the legislature before each session on the use of fund grants with specific reporting requirements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481.078, Government Code, by amending Subsection (f) and adding Subsections (e-1) and (g)-(j), as follows:

(e-1) Requires an entity to meet certain criteria to be eligible to receive a grant under this section (Texas Enterprise Fund).

(f) Requires, rather than authorizes, the governor to enter into a written agreement with the entity to be awarded the grant money specifying certain conditions relating to the grant before awarding a grant under this section.

(g) Authorizes the grant agreement to include a provision providing that a reasonable percentage of the total amount of the grant will be withheld until specified performance targets are met by the entity as of the date described by Subsection (f)(1).

(h) Requires the governor, after consultation with the speaker of the house of representatives and the lieutenant governor, to make certain determinations regarding the grant.

(i) Requires an entity entering into a grant agreement under this section to submit to the governor, lieutenant governor, and speaker of the house of representatives a quarterly progress report containing the information compiled during the previous quarter regarding the attainment of each of the performance targets specified in the agreement.

(j) Authorizes repayment of a grant under Subsection (f)(1)(A) to be prorated to reflect a partial attainment of performance targets.

SECTION 2. Amends Subchapter E, Chapter 481, Government Code, by adding Section 481.079, as follows:

Sec. 481.079. REPORT ON USE OF MONEY IN TEXAS ENTERPRISE FUND. (a) Requires the governor, before the beginning of each regular session of the legislature, to submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on grants made under Section 481.078 that states certain information relating to grants and grant recipients.

(b) Prohibits the report from including information that is made confidential by law.

(c) Authorizes the governor to require a recipient of a grant under Section 481.078 to submit, on a form the governor provides, information required to complete the report.

Sec. 481.080. ECONOMIC AND FISCAL STATEMENT FOR CERTAIN GRANT PROPOSALS. Requires the office to prepare a statement, as specified, before the governor awards a grant under Section 481.078 to an entity for a proposed initiative. Sets forth information to be included in the statement.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.