

BILL ANALYSIS

Senate Research Center
82R26818 KFF-D

C.S.H.B. 2457
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Economic Development
5/9/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2457 amends current law relating to the Texas Enterprise Fund and the Texas emerging technology fund.

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 (e) and adding Subsections (f-1) and (h-1), as follows:

(e) Provides that the administration of the Texas Enterprise Fund (TEF) is considered to be a trustee program within the office of the governor. Provides that, for the purposes of this subsection, an award of money appropriated from TEF is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant before the 91st day after the date of receipt of the proposal from the governor. Authorizes the lieutenant governor or the speaker of the house of representatives to extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

(f-1) Requires that a grant agreement contain a provision requiring the creation of a minimum number of jobs in this state, and specifying the date by which the recipient intends to create those jobs.

(h-1) Requires the governor, at least 14 days before the date the governor intends to amend a grant agreement, to notify and provide a copy of the proposed amendment to the speaker of the house of representatives, the lieutenant governor, and the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

SECTION 2. Amends Section 490.001(4), Government Code, to redefine "award."

SECTION 3. Amends Sections 490.005(a) and (b), Government Code, as follows:

(a) Requires the governor, not later than January 1 of each year, to submit to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic development matters and post on the office of the governor's Internet website a report that includes the following information regarding awards made under TEF during each preceding state fiscal year:

(1) Makes no changes to this subdivision;

(2) the number and amount of awards made under Subchapters D (Incentives for Commercialization Activities), E (Research Award Matching), F (Acquisition of Research Superiority), and J; and

(3)-(5) Makes no changes to these subdivisions.

Deletes existing text requiring the governor, not later than January 1 of each year, to submit to the legislature and post on the office of the governor's Internet website a report that includes certain information regarding TEF for the preceding three state fiscal years. Makes a nonsubstantive change.

(b) Requires that the annual report also contain:

(1) the total number of jobs actually created by each project receiving funding under this chapter;

(2) an analysis of the number of jobs actually created by each project receiving funding under this chapter; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller of public account's (comptroller's) and state auditor's offices; and

(B)-(C) Creates these paragraphs from existing text. Makes no further changes.

SECTION 4. Amends Subchapter A, Chapter 490, Government Code, by adding Section 490.006, as follows:

Sec. 490.006. VALUATION OF INVESTMENTS; INCLUSION IN ANNUAL REPORT. Requires the office of the governor to annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under TEF and of other investments made by the governor, on behalf of the state, in connection with an award under TEF. Requires that the valuation:

(1) be based on a methodology that may be developed in consultation with the comptroller's and state auditor's offices, and is consistent with generally accepted accounting principles; and

(2) be included with the annual report required under Section 490.005 (Annual Report).

SECTION 5. Amends the heading to Section 490.052, Government Code, to read as follows:

Sec. 490.052. APPOINTMENT TO COMMITTEE; NOMINATIONS.

SECTION 6. Amends Section 490.052, Government Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the governor to appoint to the Texas Emerging Technology Advisory Committee (committee) 13 individuals nominated as provided by Subsection (b) (relating to authorizing certain persons to nominate certain individuals for appointment to the committee).

(a-1) Requires the lieutenant governor to appoint two senators to the committee.

(a-2) Requires the speaker of the house of representatives to appoint two members of the house of representatives to the committee.

SECTION 7. Amends Subchapter B, Chapter 490, Government Code, by adding Section 490.0521, as follows:

Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. Requires each member of the committee to file with the office of the governor a verified financial statement complying with Sections 572.022 (Reporting Categories; Required Descriptions), 572.023 (Contents of Financial Statement in General), 572.024 (Information About Services for Lobbyists or Lobbyist Employers), 572.025 (Information About Legislators' Representation Before Executive State Agencies), 572.0251 (Information About Legislative Continuances), and 572.0252 (Information About Referrals), as is required of a state officer by Section 572.021 (Financial Statement Required).

SECTION 8. Amends Section 490.054, Government Code, as follows:

Sec. 490.054. TERMS. (a) Creates this subsection from existing text. Provides that members of the committee appointed by the governor serve staggered two-year terms, subject to the pleasure of the governor.

(b) Provides that members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

SECTION 9. Amends Section 490.056, Government Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires that each entity recommended by the committee for an award of money from the Texas Emerging Technology Fund (emerging technology fund) as provided by this chapter obtain and provide the following information to the office of the governor:

- (1) a federal criminal history background check for each principal of the entity;
- (2) a state criminal history background for each principal of the entity;
- (3) a credit check for each principal of the entity;
- (4) a copy of a government-issued form of photo identification for each principal of the entity; and
- (5) information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

(d) Defines "principal" for purposes of Subsection (c).

(e) Requires the governor to provide each officer with a copy of the information provided by the appropriate entity under Subsection (c) with each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval.

SECTION 10. Amends Section 490.057, Government Code, as follows:

Sec. 490.057. CONFIDENTIALITY. (a) Creates this subsection from existing text. Provides that, except as provided by Subsection (b), information collected by the governor's office, the committee, or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the emerging technology fund is confidential unless the individual or entity consents to disclosure of the information.

(b) Provides that the following information collected by the governor's office, the committee, or the committee's advisory panels under this chapter is public information and is authorized to be disclosed under Chapter 552 (Public Information):

(1) the name and address of an individual or entity being considered for, receiving, or having received an award from the emerging technology fund;

(2) the amount of funding applied for by an individual or entity being considered for an award, or received by an award recipient;

(3) a brief description of the project that is the subject of an application for funding or that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the emerging technology fund; and

(5) any other information designated by the committee with the consent of the individual or entity being considered for, receiving, or having received an award from the emerging technology fund, as applicable; the governor; the lieutenant governor; and the speaker of the house of representatives.

SECTION 11. Amends Section 490.101, Government Code, by amending Subsection (f) and adding Subsection (f-1), as follows:

(f) Provides that the administration of the emerging technology fund considered to be a trusted program within the office of the governor. Authorizes the governor to negotiate on behalf of the state regarding awards from the emerging technology fund. Authorizes the governor to award money appropriated from the emerging technology fund only with the prior approval, rather than the express written prior approval, of the lieutenant governor and speaker of the house of representatives.

(f-1) Provides that for purposes of Subsection (f), an award of money appropriated from the emerging technology fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award funding before the 91st day after the date of receipt of the proposal from the governor. Authorizes the lieutenant governor or the speaker of the house of representatives to extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

SECTION 12. Amends Section 490.102, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires that, subject to Subsection (c), money appropriated to the emerging technology fund by the legislature, less amounts necessary to administer the fund under Section 490.055 (Staff and Funding), be allocated as follows:

(1) 50 percent of the money for incentives for collaboration between certain entities as provided by Subchapter D;

(2) 16.67 percent of the money for research award matching as provided by Subchapter E; and

(3) 33.33 percent of the money for acquisition of research superiority as provided by Subchapter F.

(c) Requires that, each state fiscal biennium, \$2 million deposited to the fund be allocated for making awards under this chapter to companies that generate \$250,000 or less in annual gross revenue.

SECTION 13. Amends Subchapter D, Chapter 490, Government Code, by adding Section 490.1521, as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Requires each regional center of innovation and commercialization established under Section 490.152 (Regional Centers of Innovation and Commercialization), including the Texas Life Science Center for Innovation and Commercialization, to keep minutes of each meeting at which applications for funding under this subchapter are evaluated. Requires that the minutes:

(1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and

(2) indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

(b) Requires each regional center of innovation and commercialization to retain a copy of the minutes of each meeting to which this section applies for at least three years.

SECTION 14. Amends Chapter 490, Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. STRATEGIC RESEARCH INITIATIVE PROGRAMS

Sec. 490.451. USE OF MONEY FOR STRATEGIC RESEARCH INITIATIVE PROGRAMS. (a) Authorizes the governor, notwithstanding Section 490.102 (Allocation of Fund), to allocate money appropriated to the emerging technology fund by the legislature to provide grants to public or private institutions of higher education in this state for the creation of strategic research initiative programs as provided by this subchapter.

(b) Requires the committee to recommend proposals eligible for funding under this section to the governor, lieutenant governor, and speaker of the house of representatives.

(c) Prohibits the amount allocated for funding proposals under this subchapter from exceeding \$2 million in any state fiscal biennium.

Sec. 490.452. PURPOSE. Requires the committee, in recommending proposals for funding, to give specific emphasis to programs designed to provide financial assistance to enable professors, researchers, and other employees of public or private institutions of higher education to obtain an increased amount of federal grant money for research in this state.

Sec. 490.453. PRIORITY FOR FUNDING. Requires that in funding proposals under this subchapter priority be given to proposals that strengthen this state's competitiveness in obtaining federal grant money for research by:

(1) creating programs designed for and intended to achieve this purpose;

(2) funding travel for professors, researchers, and other employees of public or private institutions of higher education in this state; and

(3) allowing public or private institutions of higher education in this state to engage in innovative efforts to achieve this purpose.

Sec. 490.454. GUARANTEE OF ACTION BY PARTICIPATING ENTITY. (a) Requires an institution of higher education participating in a strategic research initiative program that receives funding under this subchapter to guarantee by contract with the governor's office that the institution will perform specific actions expected to provide benefits to this state.

(b) Requires an institution to return to the emerging technology fund the grant money received by the institution under this subchapter if the institution fails to perform an action guaranteed by contract under Subsection (a) before a time specified by the contract.

Sec. 490.455. AUTHORIZED EXPENSES. Authorizes money from the emerging technology fund under this subchapter to be used for authorized expenses, including salaries and benefits, travel, consumable supplies, other operating expenses, capital equipment, construction or renovation of state or private facilities, and workforce training.

SECTION 15. Amends Section 203.021, Labor Code, by adding Subsection (e), as follows:

(e) Prohibits money in the unemployment compensation fund (compensation fund) from being transferred to the:

(1) TEF created under Section 481.078 (Texas Enterprise Fund), Government Code; or

(2) Texas emerging technology fund established under Section 490.101 (Texas Emerging Technology Fund), Government Code.

SECTION 16. Amends Section 204.123, Labor Code, as follows:

Sec. 204.123. New heading: TRANSFER TO SKILLS DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION FUND. (a) Requires the Texas Workforce Commission (TWC), if, on September 1 of a year, TWC determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 (Ceiling and Floor of Compensation Fund) on the next October 1 computation date, to transfer from the holding fund created under Section 204.122 (Holding Fund):

(1) during any state fiscal biennium beginning on or after September 1, 2007, 100 percent to the skills development fund created under Section 303.003 (Skills Development Fund), except that the amount transferred under this subdivision is prohibited from exceeding the amount appropriated by the legislature to the skills development program strategies and activities in that biennium; and

(2) any remaining amount in the holding fund after the distribution under Subdivision (1) to the training stabilization fund created under Section 302.101.

Deletes existing text requiring TWC, if, on September 1 of a year, TWC determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, to transfer from the holding fund created under Section 204.122: from the first \$160 million deposited in the holding fund in any state fiscal biennium during the state fiscal biennium ending August 31, 2007, 67 percent to TEF created under Section 481.078, Government Code, except that the amount transferred under this

paragraph may not exceed the amount appropriated by the legislature to TEF in that biennium; and 33 percent to the skills development fund created under Section 303.003, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the skills development fund in that biennium; and from the first \$160 million deposited in the holding fund in any state fiscal biennium during any state fiscal biennium beginning on or after September 1, 2007, 75 percent to the TEF created under Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to TEF in that biennium; and 25 percent to the skills development fund created under Section 303.003, except that the amount transferred under this paragraph is prohibited from exceeding the amount appropriated by the legislature to the skills development program strategies and activities in that biennium.

(b) Requires TWC to transfer any remaining balance in the holding fund to the skills development fund, rather than to TEF, and the training stabilization fund in the manner prescribed by Subsection (a), rather than in the percentages prescribed by Subsection (a).

SECTION 17. Amends Sections 302.101(b) and (c), Labor Code, as follows:

(b) Authorizes money in the training stabilization fund to be used in a year in which the amounts in the employment and training investment holding fund are insufficient to meet the legislative appropriation for that fiscal year for the skills development program strategies and activities, rather than for that fiscal year for either the TEF or the skills development program strategies and activities.

(c) Requires that money in the training stabilization fund be transferred to the skills development fund, rather than to TEF and the skills development fund, under Subsection (b) not later than September 30. Prohibits the amount transferred from the training stabilization fund from exceeding the amounts appropriated to the skills development program strategies and activities in the fiscal year in which the transfer is made, rather than prohibiting the amount transferred from the training stabilization fund from exceeding the amounts appropriated to TEF and the skills development program strategies and activities in the fiscal year in which the transfer is made. Deletes existing text requiring the transfer under Subsection (b) to consist of transferring 67 percent of the money in the training stabilization fund to TEF and 33 percent of the money in the training stabilization fund to the skills development fund.

SECTION 18. Makes application of Sections 481.078(e) and 490.101(f), Government Code, as amended by this Act, and Section 490.101(f-1), Government Code, as added by this Act, prospective.

SECTION 19. Makes application of Section 481.078(f-1), Government Code, prospective.

SECTION 20. (a) Provides that the terms of the members of the committee serving immediately before the effective date of this Act expire September 1, 2011.

(b) Requires the governor, lieutenant governor, and speaker of the house of representatives, as soon as practicable after this Act takes effect, to appoint members of the committee established under Subchapter B (Texas Emerging Technology Advisory Committee), Chapter 490 (Funding for Emerging Technology), Government Code, in a manner that complies with that subchapter, as amended by this Act.

(c) Requires the members appointed by the governor, at the first meeting of members of the committee established under Subchapter B, Chapter 490, Government Code, as amended by this Act, occurring on or after September 1, 2011, to draw lots to determine which six members will serve a term expiring September 1, 2012, and which seven members will serve a term expiring September 1, 2013.

SECTION 21. Makes application of Section 490.102, Government Code, as amended by this Act, prospective.

SECTION 22. Effective date: September 1, 2011.