

BILL ANALYSIS

C.S.H.B. 1765
By: Morrison
Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, many of the states with which Texas competes, including Pennsylvania, Michigan, Ohio and California are investing billions of dollars for research and development funding. Much of this investment is being made to cultivate new economies spawned from the emergence of new technology markets. In Texas, local and state economic development initiatives are in place, but none provide the funding necessary to provide incentive and foster emerging technology concepts that in many instances result in marketable products. If immediate and aggressive steps are not taken to secure a strong position in these emerging economic sectors, Texas stands to lose its status as a leader in technological advancement. HB 1765 establishes the Emerging Technology Fund to cultivate economic and technological opportunities that will allow Texas to remain competitive in both national and global markets.

The Emerging Technology Fund will be a General Revenue dedicated fund to be used for research and development activities in emerging technology industries. The Fund shall be used to 1) expedite innovation and commercialization, 2) attract, create, or expand private sector entities that will drive a substantial increase in high quality jobs, and 3) increase higher education applied technology research capabilities.

The Emerging Technology Fund shall have three components: 1. Providing incentives to create Regional Centers of Innovation and Commercialization to be located in Bexar, Dallas/Tarrant, and El Paso Counties, the Lower Rio Grande Valley, and other suitable locations; 2. providing research matching grants; and 3. acquiring research superiority by attracting leading researchers from outside the state to Texas.

Eligible projects will be vetted by the Emerging Technology Committee, utilizing a strict peer review process, and then submitted for unanimous approval by the Speaker of the House, Lt. Governor, and Governor.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subtitle F, Title 4, Governmental Code, by adding Chapter 490 to read as follows:

CHAPTER 490. FUNDING FOR EMERGING TECHNOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Section 490.001. DEFINITIONS. Defines "Committee, Fund and Institution of Higher Education." Provides for the creation of the Emerging Technology Fund, the institution of higher education and the Emerging Technology Committee.

Section 490.002. PURPOSES. Provides the various ways in which the fund develops and diversifies the state's economy.

Section 490.003. EMERGING TECHNOLOGY INDUSTRIES. States the criteria by which an emerging technology industry would be eligible for funding.

SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE.

Section 490.051. COMPOSITION OF COMMITTEE. Provides that the Texas Emerging Technology Committee is composed of 17 members.

Section 490.052. APPOINTMENT BY GOVERNOR; NOMINATIONS. (a) Provides that the governor shall be given the authority to appoint committee individuals nominated by (1) the Texas Higher Education Coordinating Board (2) a president of a public or private institution of higher education in this state (3) the members of the Texas Workforce Commission (4) a representative of the governor's office involved in economic development activities and (5) other persons considered appropriate by the governor. Provides that individuals nominated must be industry leaders in this state or nationally recognized researchers from public or private institutions of higher education. Also states that the governor shall present a date after which a nomination for appointment for the next term will not be considered. If, as a result, an insufficient number of qualified individuals are nominated before this date, the governor may appoint any qualified individual to the board for that term.

Section 490.053. PRESIDING MEMBER. Requires that the governor appoint the presiding member of the committee.

Section 490.054. TERMS. States that members of the committee serve two-year terms subject to the will of the governor.

Section 490.055. COMMITTEE STAFF AND FUNDING. Describes who will provide the funding and staff for the committee (1) the office of the governor (2) the Texas Higher Education Coordinating Board (3) the Texas Education Agency (4) the Texas Workforce Commission (5) another public entity represented by a committee member (6) gifts, grants, and donations for overhead expenses to the entities listed in (1)-(5).

Section 490.056. RECOMMENDATIONS FOR FUNDING. Allows the committee to make recommendations about the appropriations of funds.

Section 490.057. CONFIDENTIALITY. Demands that all information regarding the candidate being considered for the award be kept confidential unless otherwise authorized by that entity.

(Sections 490.058 - 490.100 reserved for expansion)

SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND.

Section 490.101. TEXAS EMERGING TECHNOLOGY FUND. Defines the purpose and uses of the emerging technology fund and states the various amounts that are deposited in the fund: (1) any amounts appropriated by the legislature for the fund (2) benefits realized from a project undertaken with money from the fund, as provided by a contract entered into under Section 490.103 (3) gifts, grants, and other donations received for the fund and (4) interest earned on the investment of money in the fund. It also provides that the governor may enter into a written agreement with the entity to be awarded the grant money specifying that (1) if any portion of the grant awarded is used to build a capital improvement (A) the government retains a specific percentage and (B) the grant recipient must either (i) repay the state (ii) or share its profits earned with the state. Also, (2) if the grant recipient has not utilized the funds by a specific date specified in the contract, the recipient must repay the amount and related interest to the state.

Section 490.102. ALLOCATION OF FUND. Provides that money given to the fund shall be distributed as follows: (1) 50 percent of the money for incentives for collaboration between certain entities (2) 25 percent of the money for research grant matching and (25) percent of the money for acquisition of research superiority.

Section 490.103. ALLOCATION OF PROCEEDS. Explains how and where the contract shall appropriate the proceeds from the commercialization of intellectual or real property developed from a particular grant.

(Sections 490.104 - 490.150 reserved for expansion)

SUBCHAPTER D. INCENTIVES TO CREATE REGIONAL CENTERS OF INNOVATION AND COMMERCIALIZATION.

Section 490.151 USE OF MONEY FOR INCENTIVES. States how the money from the fund must be spent in order to provide incentives for institutions of higher education to better the economy of the state.

Section 490.152. REGIONAL CENTERS OF INNOVATION AND COMMERCIALIZATION. States that a regional center of innovation and commercialization must provide (1) research and development activities that may include initiatives to prove the feasibility of an idea (2) commercialization of the results of research and development (3) incubators for new businesses and expansion of existing businesses related to research and development and (4) workforce training for businesses resulting from research and development for a particular region. Gives the guidelines by which a regional center may be established and where: (1) Harris County (2) Lubbock County (3) Bexar County (4) the Dallas-Fort Worth Metroplex (5) El Paso County (6) the Lower Rio Grande Valley and (7) other suitable locations as determined by the governor in consultation with the lieutenant governor and the speaker of the house of representatives.

Section 490.153. PRIORITY FOR FUNDING. Lists which proposals shall be given priority (1) emerging scientific or technology fields that have a reasonable probability of enhancing this state's national and global economic competitiveness (2) those that may result in a medical or scientific breakthrough (3) collaborative between any combination of private or nonprofit entities and public or private agencies or institutions in this state (4) matched with other available funds by the private or nonprofit entity or institution of higher education collaborating on the project or (5) have a demonstrable economic development benefit to this state.

Section 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY. Provides that a person receiving money from this fund must, by contract, perform actions expected to benefit the state of Texas before the time specified in the contract. It also includes that the person would be forced to return the funds back to the state if the contract's needs were not met.

Section 490.155. GUARANTEE OR COMMERCIALIZATION OR MANUFACTURING IN TEXAS. States that a person awarded money from this fund shall only use any real or intellectual product from the research to benefit this state solely.

Section 490.156. AUTHORIZED EXPENSES. Provides the ways in which a person awarded money from this fund may use the endowment.

(Sections 490.157 - 490.200 reserved for expansion)

SUBCHAPTER E. RESEARCH GRANT MATCHING.

Section 490.201. USE OF MONEY FOR RESEARCH MATCHING. Explains how research sponsors outside of this state may be looked upon as mentors and proposals that match this funding shall be recommended by the committee to the speaker of the house, the lieutenant governor and the governor.

Section 490.202. PRIORITY FOR FUNDING. Lists which types of programs at higher institutions of learning will be given priority: (1) address federal or other major research sponsors' priorities in emerging scientific or technology fields (2) are interdisciplinary (3) are collaborative with a combination of public or private institutions of higher education in this state (4) are likely to result in a medical or scientific breakthrough or (5) have a demonstrable economic development benefit to this state.

Section 490.203. GUARANTEE OF ACTION BY PARTICIPATING PARTY. States that there shall be an existing contract between the State and the institution of higher education that provides specific benefits that the institution must supply before a certain date. It also states that an institution must return it's funding if these benefits are not received by the date agreed upon.

(Sections 490.204 - 490.250 reserved for expansion)

SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY.

Section 490.251. USE OF MONEY FOR ACQUISITION. Explains how the money allocated from this fund shall be appropriated toward the goal of enhancing and acquiring “research superiority.”

Section 490.252. RESEARCH SUPERIORITY. Gives the meaning of “research superiority” pertaining to an institution of higher education.

Section 490.253. PROPOSALS FOR FUNDING. Sets the guidelines by which a committee shall identify proposals and solicit institutions of higher learning: (1) creating new research superiority;

(2) attracting existing research superiority from institutions not located in this state and other research entities or (3) enhancing existing research superiority by attracting from outside this state additional researchers and resources This section also maintains that the committee recommend possible institutions to the speaker of the house, the lieutenant and the governor.

Section 490.254. PRIORITY FOR FUNDING. States that priority will be given to institutions of higher learning that (1) involve scientific or technical fields that will be most effective in enhancing this state's national and global economic competitiveness (2) may result in a medical or scientific breakthrough (3) are interdisciplinary (4) have attracted or may attract federal and other funding for research superiority (5) are likely to create a nationally or internationally recognized locus of research superiority or (6) are matched with other funds available to the institution seeking funding under this subchapter.

Section 490.255. AUTHORIZED EXPENSES. Lists the ways in which the funds provided may be utilized.

Section 490.256 PROHIBITED ACTIVITIES. Prohibits institutions of higher education from knowingly attracting research superiority from one another. Provides the penalties for such an act.

Section 490.257. DOCUMENTATION OF BENEFITS TO STATE. Provides that a public institution of higher education must present it’s program goals and benefits in a contract with State before the institution may receive funds. Gives the governor authority, along with the express written prior approval of the lieutenant governor and the speaker of the house of representatives, to terminate funding to an institution if it fails produce results agreed upon in the contract by the contract date that is determined by a review conducted by the committee.

SECTION 2. Provides the date by which a person seeking to nominate an individual for appointment to the committee must do so. States when the governor shall appoint the committee.

SECTION 3. Provides the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Many changes were made to the original bill. Page 1, line 18 of the substitute, clarifies it is the commercialization of research that is to be expedited. Page 2, line 1, we clarifies that it is an industry participant that may be funded. Page 4, line 17, struck language that states that the Emerging Technology Committee may create advisory panels "by rule." Page 4, added a new Section 490.057 to provide for confidentiality of any information collected pertaining to specific entities requesting funding. Page 6, lines 20 and 21, clarifies that interest can be repaid if

applicable to contract. The filed version of SB 831, if read literally requires interest repayment, even if not stated in the original contract between the state and participants. There will be times when the entirety of funding is not necessary for proof of concept, and the filed version, if read literally, would require interest payment on all funds received. Page 7, lines 7 - 16, rewords the original section 490.103. The only substantive change is an allowance for a participant to sub-contract, and an allowance that a sub-contractee may participate in future royalties and proceeds. Page 10, line 10, changed the wording for future commercialization from " a majority" to "substantial percentage."