

BILL ANALYSIS

C.S.S.B. 831
By: Shapiro
Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Local governments and the state have economic development activities, but none provide the funding necessary to incentivize and foster emerging technology concepts and allow them to become full research projects and, ultimately, marketable products. Other states and nations are utilizing economic development tools in order to remain competitive in the emerging technology market place. These practices now include aggressive campaigns to fund research and development to attract the world's best scientists and new companies. Many of Texas' peer states, such as Pennsylvania, Michigan, Ohio, and California, have committed billions of dollars each to research and development funding.

The venture capital arena does not invest in a concept until the proof of marketability has been provided, thus keeping many technology ideas from ever being researched. If the State of Texas does not take steps to secure a strong position in these emerging economic sectors, the technology revolution will leave Texas behind.

C.S.S.B. 831 establishes the Emerging Technology Fund. The Emerging Technology Fund will be a general revenue dedicated fund to be used for research and development activities in emerging technology industries. C.S.S.B. 831 requires the fund be used to expedite innovation and commercialization, attract, create, or expand private sector entities that will drive a substantial increase in high quality jobs, and increase higher education applied technology research capabilities.

The Emerging Technology Fund will 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 Texas Emerging Technology Committee, utilizing a strict peer review process, and then submitted for unanimous approval by the speaker of the house, lieutenant 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, Government Code, by adding Chapter 490, as follows:

CHAPTER 490. FUNDING FOR EMERGING TECHNOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Section 490.001. DEFINITIONS. Defines "committee," "fund," and "institution of higher education."

Section 490.002. PURPOSES. Sets forth the purposes for which the fund established under this chapter is created.

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Section 490.003. EMERGING TECHNOLOGY INDUSTRIES. (a) Sets forth eligibility requirements for an emerging technology industry participant that seeks funding for an activity under this chapter.

(b) Provides that emerging technology industries include industries related to certain pursuits.

[Reserves Sections 490.004-490.050 for expansion.]

SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY COMMITTEE

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

Section 490.052. APPOINTMENT BY GOVERNOR; NOMINATIONS. (a) Requires the governor to appoint to the committee individuals nominated as provided by Subsection (b).

(b) Authorizes certain persons and entities to nominate one or more individuals who are industry leaders in this state or who are nationally recognized researchers from public or private institutions of higher education in this state for appointment to the committee.

(c) Authorizes the governor to prescribe a date after which a nomination under Subsection (b) for appointment for the next term will not be considered.

(d) Authorizes the governor to appoint any qualified individual to the board if an insufficient number of qualified individuals are nominated before the date set by the governor.

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

Section 490.054. TERMS. Provides that committee members serve two-year terms, subject to the pleasure of the governor.

Section 490.055. COMMITTEE STAFF AND FUNDING. Requires that necessary staff and funding for the committee be provided by certain entities.

Section 490.056. RECOMMENDATIONS FOR FUNDING. (a) Requires the committee to make recommendations to certain individuals for the award of money from the fund as provided by this chapter.

(b) Authorizes the committee to establish advisory panels of knowledgeable individuals from industry, state government, or academic occupations to assist in peer review activities under this chapter.

Section 490.057. CONFIDENTIALITY. Provides that information collected by the governor's office, the committee, or the committee's advisory panels concerning certain information regarding an individual or entity being considered for an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

[Reserves Sections 490.058-490.100 for expansion.]

SUBCHAPTER C. TEXAS EMERGING TECHNOLOGY FUND

Section 490.101. TEXAS EMERGING TECHNOLOGY FUND. (a) Provides that the Texas emerging technology fund is a dedicated account in the general revenue fund.

(b) Requires certain amounts to be deposited in the fund.

(c) Authorizes the fund to be used only for the purposes described by Section 490.002.

(d) Authorizes the committee to solicit and accept gifts and grants for the fund from public and private entities.

(e) Authorizes the fund to be temporarily used by the comptroller for cash management purposes.

(f) Provides that the administration of the fund is considered to be a trustee program within the office of the governor. Authorizes the governor to negotiate on behalf of the state regarding awarding, by grant, money appropriated from the fund. Authorizes the governor to award money appropriated from the fund only with the express written prior approval of the lieutenant governor and speaker of the house of representatives.

(g) Provides that before awarding a grant under this chapter, the governor shall enter into a written agreement with the entity to be awarded the grant money. Provides certain criteria that the contract may specify.

Section. 490.102. ALLOCATION OF FUND. (a) Requires money appropriated to the fund by the legislature to be allocated in a certain manner.

(b) Authorizes the governor to reallocate money from one component of the fund to another component subject to the prior approval of the lieutenant governor and speaker of the house of representatives.

Section 490.103. ALLOCATION OF PROCEEDS. (a) Requires the contract between the governor and a recipient awarded a grant under this chapter to provide for the distribution of royalties, revenue, or other financial benefits realized from the commercialization of intellectual or real property developed from any grant awarded from the fund. Requires the contract, to the extent authorized by law and not in conflict with another agreement, to appropriately allocate by assignment, licensing, or other means the royalties, revenue, or other financial benefits among identifiable collaborating parties and in a specified percentage to this state for deposit in the fund

(b) Requires a contract under Subsection (a) to also specify other matters considered necessary by the governor, lieutenant governor, and speaker of the house of representatives.

[Reserves Sections 490.104-190.150 for expansion.]

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

Section 490.151. USE OF MONEY FOR INCENTIVES. (a) Requires amounts allocated from the fund for use as provided by this subchapter to be reserved for incentives for private or nonprofit entities to collaborate with public or private institutions of higher education in this state on emerging technology projects with a demonstrable economic benefit to this state.

(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.

Section 490.152. REGIONAL CENTERS OF INNOVATION AND COMMERCIALIZATION.

(a) Requires the committee, in recommending proposals for funding, to give specific emphasis to the formation of regional centers of innovation and commercialization.

(b) Authorizes an appropriate combination of entities described by Section 490.151(a) to collaborate to form a regional center of innovation and commercialization to serve a region of this state.

(c) Requires a regional center of innovation and commercialization to provide certain services for a specified region.

(d) Requires the committee, subject to the availability of suitable partners and resources, to propose and initiate the establishment of a regional center of innovation and commercialization in certain counties and areas of the state.

Section 490.153. PRIORITY FOR FUNDING. Requires that priority for funding under this

subchapter be given to proposals that meet certain requirements.

Section 490.154. GUARANTEE OF ACTION BY PARTICIPATING ENTITY. (a) Requires an entity participating in a regional center of innovation and commercialization that receives funding or another incentive under this subchapter to guarantee by contract with the governor's office that the entity will perform specific actions expected to provide benefits to this state.

(b) Requires an entity to return to the fund the money received by the entity if the entity fails to perform an action guaranteed by contract before a time specified by the contract.

Section 490.155. GUARANTEE OF COMMERCIALIZATION OR MANUFACTURING IN TEXAS. Requires a person or entity awarded money from the fund under this subchapter to guarantee by contract that a substantial percentage of any new or expanded commercialization or manufacturing of any real or intellectual product resulting from the award will be established in this state.

Section 490.156. AUTHORIZED EXPENSES. Sets forth authorized expenses for a person awarded money from the fund under this subchapter.

[Reserves Sections 490.157-490.200 for expansion.]

SUBCHAPTER E. RESEARCH GRANT MATCHING

Section 490.201. USE OF MONEY FOR RESEARCH GRANT MATCHING. (a) Requires amounts allocated from the fund for use as provided by this subchapter to be reserved to match funding from research sponsors other than this state, including federal research sponsors.

(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.

Section 490.202. PRIORITY FOR FUNDING. Requires that priority for funding under this subchapter be given to proposals that accelerate commercialization into production by targeting programs that meet certain requirements.

Section 490.203. GUARANTEE OF ACTION BY PARTICIPATING ENTITY. (a) Requires an entity receiving funding or another incentive under this subchapter to guarantee by contract with the governor's office that the entity will perform specific actions that are expected to provide benefits to this state.

(b) Requires an entity to return to the fund the money received by the entity if the entity fails to perform an action guaranteed by contract before a time specified by the contract.

[Reserves Sections 490.204-490.250 for expansion.]

SUBCHAPTER F. ACQUISITION OF RESEARCH SUPERIORITY

Section 490.251. USE OF MONEY FOR ACQUISITION OF RESEARCH SUPERIORITY. Requires amounts allocated from the fund for use as provided by this subchapter to be used to acquire new or enhance existing research superiority at public institutions of higher education in this state.

Section 490.252. RESEARCH SUPERIORITY. Defines "research superiority."

Section 490.253. PROPOSALS FOR FUNDING. (a) Requires the committee to solicit and identify proposals by public institutions of higher education for certain objectives relating to research superiority.

(b) Requires the committee to recommend proposals eligible for funding under Section 490.251 and proposals solicited and identified under this section to the governor, lieutenant governor, and speaker of the house of representatives.

Section 490.254. PRIORITY FOR FUNDING. Requires that priority for funding under this subchapter be given to proposals that meet certain requirements.

Section 490.255. AUTHORIZED EXPENSES. Sets forth authorized expenses for a person awarded money from the fund under this subchapter.

Section 490.256. PROHIBITED ACTIVITIES. (a) Prohibits an institution of higher education from knowingly attempting to attract an individual key researcher or research superiority identified for consideration for funding by another public or private institution of higher education in this state under this subchapter.

(b) Provides that an institution that violates this section is ineligible to participate in a program or receive funding under this chapter before the third anniversary of the date the institution last engaged in an activity prohibited by this section.

Section 490.257. DOCUMENTATION OF BENEFITS TO STATE. (a) Requires a public institution of higher education to document specific benefits that this state might expect to gain as a result of attracting the research superiority before the institution is authorized to enter into a contract to receive funding or incentives under this subchapter.

(b) Authorizes the governor, 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 the institution fails to realize a benefit specified in the contract before a time specified in the contract, as determined by a periodic program review conducted by the committee.

SECTION 2. (a) Requires a person seeking to nominate an individual for appointment to the committee under Section 490.052, Government Code, as added by this Act, as soon as practicable after the effective date of this Act, to make any nominations.

(b) Requires the governor to appoint the committee as required by Section 490.052, Government Code, as added by this Act, on or before September 1, 2005, or as soon as practicable after giving persons nominating individuals for appointment to the committee a reasonable time to make any nominations.

SECTION 3. Provides the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill did not include an economic development representative from the speaker's staff and the lieutenant governor's staff to the Emerging Technology Council and the substitute bill adds them. The substitute provides that the Governor "shall," enter into a contract rather than the "may" provision in the original bill. The substitute provides that a contract "may" rather than "shall" specify certain criteria to be included in a contract.