

AN ACT

relating to the award of a grant and reporting requirements under the Texas Enterprise Fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(e-1) To be eligible to receive a grant under this section, the entity must:

(1) be in good standing under the laws of the state in which the entity was formed or organized, as evidenced by a certificate issued by the secretary of state or the state official having custody of the records pertaining to entities or other organizations formed under the laws of that state; and

(2) owe no delinquent taxes to a taxing unit of this state.

(f) Before awarding a grant under this section, the governor shall ~~may~~ enter into a written agreement with the entity to be awarded the grant money specifying that:

(1) if the governor finds that the grant recipient has not met each of the performance targets specified in the agreement as of a date certain provided in the agreement:

(A) the recipient shall repay the grant and any related interest to the state at the agreed rate and on the agreed

1 terms;

2 (B) the governor will not distribute to the
3 recipient any grant money that remains to be awarded under the
4 agreement; and

5 (C) the governor may assess specified penalties
6 for noncompliance against the recipient;

7 (2) if all or any portion of the amount of the grant is
8 used to build a capital improvement, the state may:

9 (A) retain [~~the state retains~~] a lien or other
10 interest in the capital improvement in proportion to the percentage
11 of the grant amount used to pay for the capital improvement; and

12 (B) require the recipient of the grant [~~shall~~],
13 if the capital improvement is sold, to:

14 (i) repay to the state the grant money used
15 to pay for the capital improvement, with interest at the rate and
16 according to the other terms provided by the agreement; and

17 (ii) share with the state a proportionate
18 amount of any profit realized from the sale; and

19 (3) [(2)] if, as of a date certain provided in the
20 agreement, the grant recipient has not used grant money awarded
21 under this section for the purposes for which the grant was
22 intended, the recipient shall repay that amount and any related
23 interest to the state at the agreed rate and on the agreed terms.

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

1 (h) The governor, after consultation with the speaker of the
2 house of representatives and the lieutenant governor, shall
3 determine:

4 (1) the performance targets and date required to be
5 contained in the grant agreement as provided by Subsection (f)(1);
6 and

7 (2) if the grant agreement includes the provision
8 authorized by Subsection (g), the percentage of grant money
9 required to be withheld.

10 (i) An entity entering into a grant agreement under this
11 section shall submit to the governor, lieutenant governor, and
12 speaker of the house of representatives an annual progress report
13 containing the information compiled during the previous calendar
14 year regarding the attainment of each of the performance targets
15 specified in the agreement.

16 (j) Repayment of a grant under Subsection (f)(1)(A) may be
17 prorated to reflect a partial attainment of performance targets.

18 SECTION 2. Subchapter E, Chapter 481, Government Code, is
19 amended by adding Sections 481.079 and 481.080 to read as follows:

20 Sec. 481.079. REPORT ON USE OF MONEY IN TEXAS ENTERPRISE
21 FUND. (a) Before the beginning of each regular session of the
22 legislature, the governor shall submit to the lieutenant governor,
23 the speaker of the house of representatives, and each other member
24 of the legislature a report on grants made under Section 481.078
25 that states:

26 (1) the number of direct jobs each recipient committed
27 to create in this state;

1 (2) the number of direct jobs each recipient created
2 in this state;

3 (3) the median wage of the jobs each recipient created
4 in this state;

5 (4) the amount of capital investment each recipient
6 committed to expend or allocate per project in this state;

7 (5) the amount of capital investment each recipient
8 expended or allocated per project in this state;

9 (6) the total amount of grants made to each recipient;

10 (7) the average amount of money granted in this state
11 for each job created in this state by grant recipients;

12 (8) the number of jobs created in this state by grant
13 recipients in each sector of the North American Industry
14 Classification System (NAICS); and

15 (9) of the number of direct jobs each recipient
16 created in this state, the number of positions created that provide
17 health benefits for employees.

18 (b) The report may not include information that is made
19 confidential by law.

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

23 Sec. 481.080. ECONOMIC AND FISCAL IMPACT STATEMENT FOR
24 CERTAIN GRANT PROPOSALS. (a) Before the governor awards a grant
25 under Section 481.078 to an entity for a proposed initiative, the
26 office shall prepare a statement that, specifically and in detail,
27 assesses the direct economic impact that approval of the grant will

1 have on the residents of this state.

2 (b) The statement must include:

3 (1) for the period covered by the grant:

4 (A) the estimated number of jobs to be created in
5 this state by the potential recipient each biennium; and

6 (B) the estimated median wage of the jobs to be
7 created in this state by the potential recipient each biennium;

8 (2) the additional amount of ad valorem taxes, sales
9 and use taxes, and fee revenues projected to be generated each year
10 by governmental entities of this state;

11 (3) the total amount of tax credits, local incentives,
12 and other money or credits estimated to be distributed to the
13 proposed grant recipient by governmental entities of this state;
14 and

15 (4) any other information the office considers
16 necessary to include in the statement.

17 SECTION 3. The changes in law made by this Act to Section
18 481.078, Government Code, apply only to an agreement that is
19 entered into on or after the effective date of this Act. An
20 agreement that is entered into before the effective date of this Act
21 is governed by the law in effect on the date the agreement was
22 entered into, and the former law is continued in effect for that
23 purpose.

24 SECTION 4. This Act takes effect September 1, 2005.

H.B. No. 1938

President of the Senate

Speaker of the House

I certify that H.B. No. 1938 was passed by the House on April 12, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1938 on May 23, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1938 was passed by the Senate, with amendments, on May 19, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor