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H.B. No. 1938

A BILL TO BE ENTITLED

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 (g)-(j) to read as follows:

(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 terms;

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

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

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

(A) the state retains a lien or other interest in

1 the capital improvement in proportion to the percentage of the
2 grant amount used to pay for the capital improvement; and

3 (B) the recipient of the grant shall, if the
4 capital improvement is sold:

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

8 (ii) share with the state a proportionate
9 amount of any profit realized from the sale; ~~and~~

10 (3) ~~(2)~~ if, as of a date certain provided in the
11 agreement, the grant recipient has not used grant money awarded
12 under this section for the purposes for which the grant was
13 intended, the recipient shall repay that amount and any related
14 interest to the state at the agreed rate and on the agreed terms;
15 and

16 (4) the entity shall disclose to the governor any
17 event or circumstance that arises during the period covered by the
18 agreement that could significantly impact the entity's financial
19 condition or could otherwise affect the entity's ability to comply
20 with the terms of the agreement, including:

21 (A) a lawsuit filed against the recipient; or

22 (B) if the entity is a business entity, the death
23 of a principal owner or general partner of the entity.

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 a quarterly progress report
13 containing the information compiled during the previous quarter
14 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 Section 481.079 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 promised
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 promised 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 total amount of tax credits, local incentives,
11 and other money or credits distributed to each recipient by
12 governmental entities of this state;

13 (8) the percentage of money granted to recipients with
14 fewer than 100 employees;

15 (9) the geographical distribution of grants by county;

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

18 (11) the number of jobs created in this state by grant
19 recipients in each sector of the North American Industry
20 Classification System (NAICS); and

21 (12) the effect of grants on employment, personal
22 income, and capital investment in this state and in each regional
23 planning commission area.

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

26 (c) The governor may require a recipient of a grant under
27 Section 481.078 to submit, on a form the governor provides,

1 information required to complete the report.

2 SECTION 3. The changes in law made by this Act to Section
3 481.078, Government Code, apply only to an agreement that is
4 entered into on or after the effective date of this Act. An
5 agreement that is entered into before the effective date of this Act
6 is governed by the law in effect on the date the agreement was
7 entered into, and the former law is continued in effect for that
8 purpose.

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