

By: Ritter, et al. (Senate Sponsor - Brimer) H.B. No. 1938
(In the Senate - Received from the House April 13, 2005;
April 14, 2005, read first time and referred to Subcommittee on
Emerging Technologies and Economic Development; May 6, 2005,
reported adversely, with favorable Committee Substitute to
Committee on Business and Commerce; May 11, 2005, reported
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Business and Commerce by the following vote: Yeas 8, Nays 0;
May 11, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 1938

By: Brimer

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 (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
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, the state may:

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

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

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

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

(3) [42] if, as of a date certain provided in the
agreement, the grant recipient has not used grant money awarded
under this section for the purposes for which the grant was
intended, the recipient shall repay that amount and any related
interest to the state at the agreed rate and on the agreed terms.

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

(h) The governor, after consultation with the speaker of the

house of representatives and the lieutenant governor, shall determine:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The statement must include:

(1) for the period covered by the grant:

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

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

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

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

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

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

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

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