

BILL ANALYSIS

C.S.H.B. 1188
By: Morrison
Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

H.B. 1765, Acts of the 79th Legislature, Regular Session, 2005, created the Texas Emerging Technology Fund as a way to help stimulate economic activity and development in Texas for emerging technologies. After a year-and-a-half of development and execution of the fund, revisions need to be made to help facilitate the operation of the fund.

C.S.H.B. 1188 enables additional investment vehicles such as equity, debt instruments, and grants to be used to provide awards. Additionally, the bill assists in the development of regional centers of innovation.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Section 490.001, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, by amending Subdivision (1) to redefine "committee" and adding Subdivision (4) to define "award."

SECTION 2. Amends the heading to Subchapter B, Chapter 490, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE

SECTION 3. Amends Section 490.051, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.051. Makes a conforming change.

SECTION 4. Amends Section 490.052(b), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(b) Provides for the removal of the Texas Higher Education Coordinating Board (THECB) and the members of the Texas Workforce Commission (TWC) from the list of persons who are authorized to nominate one or more individuals who are industry leaders in this state or who are nationally recognized leaders, rather than researchers, from the public or private institutions of higher education in this state for appointment to the Texas Emerging Technology Advisory Committee (committee). This section also makes conforming changes.

SECTION 5. Amends Section 490.054, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.054. States that the two-year terms that members of the committee serve, subject to the pleasure of the governor, are to be staggered.

SECTION 6. Amends Section 490.055, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

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Section 490.055. Modifies the heading to read STAFF AND FUNDING, rather than COMMITTEE STAFF AND FUNDING, and requires necessary staffing and funding for the administration of the Texas emerging technology fund (fund), rather than the committee, to be provided by the office of the governor as well as by gifts, grants, and donations for overhead expenses to the office of the governor. Deletes existing text referring to staff and funding to be provided by THECB, Texas Education Agency, TWC, and another public entity. This section also makes non-substantive changes.

SECTION 7. Amends Sections 490.101, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, by amending Subsections (c), (f), and (g) and adding Subsections (h) and (i) as follows:

(c) States that the fund is authorized to be used for necessary staff, administration of the fund including administration by the office of the governor, and services related to the fund as provided for by Section 490.055.

(f) Authorizes the governor to negotiate on behalf of the state regarding awards, rather than awarding by grant, money appropriated from the fund.

(g) Replaces the words "awarding a grant" with "making an award." Replaces the words "be awarded the grant money" with "received the award. Replaces the word "grant" with "award" in certain instances. Replaces the words "the award received" with "grant money awarded."

(h) Authorizes the governor to make awards in the form of loans, charge and receive reasonable interest for the loans, take an equity position in the form of stock or other security in consideration of an award, and sell or otherwise trade or exchange the security for the benefit of the fund. Requires interest or proceeds received as a result of a transaction authorized by this subsection to be deposited to the corpus of the fund and authorizes such to be used in the same manner as the corpus of the fund.

(i) Authorizes the contract between the governor and a recipient of an award under this chapter to set the terms relating to an award.

SECTION 8. Amends Section 490.102(a), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(a) States that the amounts necessary to administer the fund under Section 490.055 are not subject to the money appropriated to the fund by the legislature that is required to be allocated in a certain fashion. Decreases from 25 percent to 16.67 percent the amount of the fund that is allocated for research award, rather than grant, matching as provided by Subchapter E. Increases from 25 percent to 33.33 percent the amount of the fund that is allocated for acquisition of research superiority as provided by Subchapter F.

SECTION 9. Amends Section 490.103(a), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(a) Replaces the words "awarded a grant" with "of an award." Replaces the words "grant awarded" with "award."

SECTION 10. Amends the heading to Subchapter D, Chapter 490, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

SUBCHAPTER D. INCENTIVES FOR COMMERCIALIZATION ACTIVITIES

SECTION 11. Amends Section 490.153, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.153. (a) Requires priority to be given to certain proposals in allocating, rather than awarding, money from the fund.

(b) Adds language that authorizes an amount not to exceed two percent of the amount allocated for a fiscal biennium for incentives under this subchapter to be invested directly in the regional center of innovation and commercialization as recommended by the committee and approved by the governor, lieutenant governor, and speaker of the house of representatives to support commercialization activities.

SECTION 12. Amends Section 490.155, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.155. States that a person or entity receiving, rather than awarded, money from the fund under this subchapter must guarantee by contract that a substantial percentage of any new or expanded commercialization or manufacturing resulting from the award, rather than any new or expanded commercialization or manufacturing of any real or intellectual product resulting from the award, will be established in this state.

SECTION 13. Amends Section 490.156(a), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(a) States that a person receiving, rather than awarded, money from the fund under this subchapter may use the money to expedite commercialization that will lead to an increase in high-quality jobs in this state and shall use the money in accordance with a contract between the person and the office of the governor, rather than the committee.

SECTION 14. Amends the heading to Subchapter E, Chapter 490, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

SUBCHAPTER E. RESEARCH AWARD MATCHING

SECTION 15. Amends the heading to Section 490.201, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.201. USE OF MONEY FOR RESEARCH AWARD MATCHING.

SECTION 16. Amends Section 490.202, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.202. Requires priority to be given in allocating, rather than awarding, money from the fund under this subchapter to proposals that accelerate commercialization into production by targeting certain programs.

SECTION 17. Amends Section 490.253(a), Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

(a) States the requirement of the committee to review and consider, rather than solicit and identify, proposals by public institutions of higher education for certain purposes.

SECTION 18. Amends Section 490.254, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.254. Provides that priority is to be given to certain proposals in allocating, rather than awarding, money from the fund under this subchapter.

SECTION 19. Amends Section 490.255, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Section 490.255. States that money allocated, rather than awarded, from the fund may be used for research and research capability acquisition under this subchapter.

SECTION 20. (a) Provides that changes in law made by this Act to Sections 490.052 and 490.054, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, apply only to a member of the committee for a term beginning on or after September 1, 2007.

(b) Requires the committee members, at the first meeting of the committee after September 1, 2007, to draw lots to determine which eight members will serve one-year terms beginning on the date on which the next term beginning on or after September 1, 2007, begins.

SECTION 21. States the effective date for this Act.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1188 modifies the original by making a non-substantive change to the definition of "award." The substitute also revises the original bill so that the phrase, "a president of a public or private institution of higher education in this state," is no longer struck from the list of individuals who may make nominations to the advisory committee. Renumbers subsequent list items accordingly.

C.S.H.B. 1188 differs from the original bill because it strikes and adds language so that the staffing and funding for the administration of the fund will be provided solely by the office of the governor, as well as through gifts or donations for overhead expenses to the office of the governor. It removes the funding limits for the administration of the fund to the greater of 0.4 percent of the biennial appropriation for the fund or \$600,000 in any year and strikes language subjecting this amount to the approval of the governor, lieutenant governor, and speaker of the house of representatives. Makes conforming changes.

C.S.H.B. 1188 makes a non-substantive change to Section 490.101(c) and adds Section 490.101(h) to the original bill, which authorizes the governor to make awards in the form of loans and otherwise invest portions of the fund to realize profits to be deposited directly back into the fund. Adds Section 490.101(i), which authorizes the governor to enter into contracts in order to do so.

C.S.H.B. 1188 makes a technical correction to SECTION 10.

C.S.H.B. 1188 strikes SECTION 11 from the original, which established the inclusion of entities considered appropriate by the committee among those that private and nonprofit entities collaborate with in order to receive monetary incentives allocated from the fund that are required to be reserved for such incentives. Renumbers subsequent sections accordingly.

C.S.H.B. 1188 adds language to the original that requires the approval of the governor, lieutenant governor, and speaker of the house of representatives to authorize incentives invested directly in the regional center of innovation and commercialization for an amount not to exceed two percent, rather than two and a half percent, of the total amount allocated. Makes a non-substantive change.

C.S.H.B. 1188 makes a change to provide that a person or entity receiving money from the fund must guarantee by contract that a substantial percentage of any new or expanded commercialization or manufacturing resulting from the award, rather than any new or expanded commercialization or manufacturing of any real or intellectual product resulting from the award, will be established in this state.

C.S.H.B. 1188 removes SECTION 21 of the original bill that specified clean coal projects as eligible for awards from the fund, renumbering subsequent sections accordingly.

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