

By: Morrison

H.B. No. 1188

Substitute the following for H.B. No. 1188:

By: Kolkhorst

C.S.H.B. No. 1188

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emerging technology fund.

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

SECTION 1. Section 490.001, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subdivision (1) and adding Subdivision (4) to read as follows:

(1) "Committee" means the Texas Emerging Technology Advisory Committee.

(4) "Award" means:

(A) for purposes of Subchapter D, an investment in the form of equity or a convertible note;

(B) for purposes of Subchapter E, an investment in the form of a debt instrument;

(C) for purposes of Subchapter F, a grant; or

(D) other forms of contribution or investment as recommended by the committee and approved by the governor, lieutenant governor, and speaker of the house of representatives.

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

SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY ADVISORY COMMITTEE

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

1 is amended to read as follows:

2 Sec. 490.051. COMPOSITION OF COMMITTEE. The Texas Emerging
3 Technology Advisory Committee is composed of 17 members.

4 SECTION 4. Section 490.052(b), Government Code, as added by
5 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
6 is amended to read as follows:

7 (b) The following persons may nominate one or more
8 individuals who are industry leaders in this state or who are
9 nationally recognized leaders [~~researchers~~] from public or private
10 institutions of higher education in this state for appointment to
11 the committee:

12 (1) [~~the Texas Higher Education Coordinating Board,~~
13 [~~2~~] a president of a public or private institution
14 of higher education in this state;

15 (2) [~~3~~] the members of the Texas Workforce
16 Commission;

17 (4) [~~4~~] a representative of the governor's office
18 involved in economic development activities;

19 (3) [~~5~~] a representative of the lieutenant
20 governor's office involved in economic development activities;

21 (4) [~~6~~] a representative of the office of the
22 speaker of the house involved in economic development activities;
23 and

24 (5) [~~7~~] other persons considered appropriate by the
25 governor.

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

1 is amended to read as follows:

2 Sec. 490.054. TERMS. Members of the committee serve
3 staggered two-year terms, subject to the pleasure of the governor.

4 SECTION 6. Section 490.055, Government Code, as added by
5 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
6 is amended to read as follows:

7 Sec. 490.055. [~~COMMITTEE~~] STAFF AND FUNDING. Necessary
8 staff and funding for the administration of the fund [~~committee~~]
9 shall be provided by:

- 10 (1) the office of the governor; and
11 (2) [~~the Texas Higher Education Coordinating Board;~~
12 [~~(3) the Texas Education Agency;~~
13 [~~(4) the Texas Workforce Commission;~~
14 [~~(5) another public entity represented by a committee~~
15 ~~member; and~~
16 [~~(6)~~] gifts, grants, and donations for overhead
17 expenses to the office of the governor [~~entities listed in~~
18 ~~Subdivisions (1)-(5)].~~

19 SECTION 7. Section 490.101, Government Code, as added by
20 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
21 is amended by amending Subsections (c), (f), and (g) and adding
22 Subsections (h) and (i) to read as follows:

- 23 (c) The fund may be used only for:
24 (1) the purposes described by Section 490.002; and
25 (2) necessary staff, administration of the fund
26 including administration by the office of the governor, and
27 services and expenses related to the fund as provided for by Section

1 490.055.

2 (f) The administration of the fund is considered to be a
3 trustee program within the office of the governor. The governor
4 may negotiate on behalf of the state regarding awards [~~awarding, by~~
5 ~~grant, money appropriated~~] from the fund. The governor may award
6 money appropriated from the fund only with the express written
7 prior approval of the lieutenant governor and speaker of the house
8 of representatives.

9 (g) Before making an award [~~awarding a grant~~] under this
10 chapter, the governor shall enter into a written agreement with the
11 entity to receive the award [~~be awarded the grant money~~]. An
12 agreement may specify that:

13 (1) if all or any portion of the amount of the award
14 [~~grant~~] is used to build a capital improvement:

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

18 (B) the recipient of the award [~~grant~~] shall, if
19 the capital improvement is sold:

20 (i) repay to the state the award [~~grant~~
21 ~~money~~] used to pay for the capital improvement, with interest at the
22 rate and according to the other terms provided by the agreement; and

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

25 (2) if, as of a date certain provided in the agreement,
26 the award [~~grant~~] recipient has not used the award received [~~grant~~
27 ~~money awarded~~] under this chapter for the purposes for which the

1 award [~~grant~~] was intended, the recipient shall repay that amount
2 and any related interest applicable under the agreement to the
3 state at the agreed rate and on the agreed terms.

4 (h) The governor may make awards in the form of loans,
5 charge and receive reasonable interest for the loans, take an
6 equity position in the form of stock or other security in
7 consideration of an award, and sell or otherwise trade or exchange
8 the security for the benefit of the fund. Interest or proceeds
9 received as a result of a transaction authorized by this subsection
10 shall be deposited to the corpus of the fund and may be used in the
11 same manner as the corpus of the fund.

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

14 SECTION 8. Section 490.102(a), Government Code, as added by
15 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
16 is amended to read as follows:

17 (a) Money appropriated to the fund by the legislature, less
18 amounts necessary to administer the fund under Section 490.055,
19 shall be allocated as follows:

20 (1) 50 percent of the money for incentives for
21 collaboration between certain entities as provided by Subchapter D;

22 (2) 16.67 [~~25~~] percent of the money for research award
23 [~~grant~~] matching as provided by Subchapter E; and

24 (3) 33.33 [~~25~~] percent of the money for acquisition of
25 research superiority as provided by Subchapter F.

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

1 is amended to read as follows:

2 (a) The contract between the governor and a recipient of an
3 award [~~awarded a grant~~] under this chapter shall provide for the
4 distribution of royalties, revenue, or other financial benefits
5 realized from the commercialization of intellectual or real
6 property developed from any award [~~grant awarded~~] from the fund. To
7 the extent authorized by law and not in conflict with another
8 agreement, the contract shall appropriately allocate by
9 assignment, licensing, or other means the royalties, revenue, or
10 other financial benefits among identifiable collaborating parties
11 and in a specified percentage to this state for deposit in the fund.

12 SECTION 10. The heading to Subchapter D, Chapter 490,
13 Government Code, as added by Chapter 280, Acts of the 79th
14 Legislature, Regular Session, 2005, is amended to read as follows:

15 SUBCHAPTER D. INCENTIVES FOR [~~TO CREATE REGIONAL CENTERS OF~~
16 ~~INNOVATION AND~~] COMMERCIALIZATION ACTIVITIES

17 SECTION 11. Section 490.153, Government Code, as added by
18 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
19 is amended to read as follows:

20 Sec. 490.153. PRIORITY FOR FUNDING. (a) In allocating
21 [~~awarding~~] money from the fund under this subchapter, priority
22 shall be given to proposals that:

23 (1) involve emerging scientific or technology fields
24 that have a reasonable probability of enhancing this state's
25 national and global economic competitiveness;

26 (2) may result in a medical or scientific
27 breakthrough;

1 (3) are collaborative between any combination of
2 private or nonprofit entities and public or private agencies or
3 institutions in this state;

4 (4) are matched with other available funds, including
5 funds from the private or nonprofit entity or institution of higher
6 education collaborating on the project; or

7 (5) have a demonstrable economic development benefit
8 to this state.

9 (b) An amount not to exceed two percent of the amount
10 allocated for a fiscal biennium for incentives under this
11 subchapter may be invested directly in the regional center of
12 innovation and commercialization as recommended by the committee
13 and approved by the governor, lieutenant governor, and speaker of
14 the house of representatives to support commercialization
15 activities.

16 SECTION 12. Section 490.155, Government Code, as added by
17 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
18 is amended to read as follows:

19 Sec. 490.155. GUARANTEE OF COMMERCIALIZATION OR
20 MANUFACTURING IN TEXAS. A person or entity receiving ~~[awarded]~~
21 money from the fund under this subchapter must guarantee by
22 contract that a substantial percentage of any new or expanded
23 commercialization or manufacturing ~~[of any real or intellectual~~
24 ~~product]~~ resulting from the award will be established in this
25 state.

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

1 2005, is amended to read as follows:

2 (a) A person receiving ~~[awarded]~~ money from the fund under
3 this subchapter may use the money to expedite commercialization
4 that will lead to an increase in high-quality jobs in this state and
5 shall use the money in accordance with a contract between the person
6 and the office of the governor ~~[committee]~~.

7 SECTION 14. The heading to Subchapter E, Chapter 490,
8 Government Code, as added by Chapter 280, Acts of the 79th
9 Legislature, Regular Session, 2005, is amended to read as follows:

10 SUBCHAPTER E. RESEARCH AWARD ~~[GRANT]~~ MATCHING

11 SECTION 15. The heading to Section 490.201, Government
12 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular
13 Session, 2005, is amended to read as follows:

14 Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD ~~[GRANT]~~
15 MATCHING.

16 SECTION 16. Section 490.202, Government Code, as added by
17 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
18 is amended to read as follows:

19 Sec. 490.202. PRIORITY FOR FUNDING. In allocating
20 ~~[awarding]~~ money from the fund under this subchapter, priority
21 shall be given to proposals that accelerate commercialization into
22 production by targeting programs that:

23 (1) address federal or other major research sponsors'
24 priorities in emerging scientific or technology fields;

25 (2) are interdisciplinary;

26 (3) are collaborative with a combination of public or
27 private institutions of higher education in this state;

1 (4) are likely to result in a medical or scientific
2 breakthrough; or

3 (5) have a demonstrable economic development benefit
4 to this state.

5 SECTION 17. Section 490.253(a), Government Code, as added
6 by Chapter 280, Acts of the 79th Legislature, Regular Session,
7 2005, is amended to read as follows:

8 (a) The committee shall review and consider [~~solicit and~~
9 ~~identify~~] proposals by public institutions of higher education for:

10 (1) creating new research superiority;

11 (2) attracting existing research superiority from
12 institutions not located in this state and other research entities;
13 or

14 (3) enhancing existing research superiority by
15 attracting from outside this state additional researchers and
16 resources.

17 SECTION 18. Section 490.254, Government Code, as added by
18 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
19 is amended to read as follows:

20 Sec. 490.254. PRIORITY FOR FUNDING. In allocating
21 [~~awarding~~] money from the fund under this subchapter, priority
22 shall be given to proposals that:

23 (1) involve scientific or technical fields that have a
24 reasonable probability of enhancing this state's national and
25 global economic competitiveness;

26 (2) may result in a medical or scientific
27 breakthrough;

1 (3) are interdisciplinary;

2 (4) have attracted or may attract federal and other
3 funding for research superiority;

4 (5) are likely to create a nationally or
5 internationally recognized locus of research superiority; or

6 (6) are matched with other funds available to the
7 institution seeking funding under this subchapter.

8 SECTION 19. Section 490.255, Government Code, as added by
9 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
10 is amended to read as follows:

11 Sec. 490.255. AUTHORIZED EXPENSES. Money allocated
12 [~~awarded~~] from the fund under this subchapter may be used for
13 research and research capability acquisition, including salaries
14 and benefits, travel, consumable supplies, other operating
15 expenses, capital equipment, and construction or renovation of
16 facilities.

17 SECTION 20. (a) The changes in law made by this Act to
18 Sections 490.052 and 490.054, Government Code, as added by Chapter
19 280, Acts of the 79th Legislature, Regular Session, 2005, apply
20 only to a member of the Texas Emerging Technology Advisory
21 Committee for a term beginning on or after September 1, 2007.

22 (b) At the first meeting of the Texas Emerging Technology
23 Advisory Committee after September 1, 2007, the committee members
24 shall draw lots to determine which eight members will serve
25 one-year terms beginning on the date on which the next term
26 beginning on or after September 1, 2007, begins.

27 SECTION 21. This Act takes effect September 1, 2007.