

By: Morrison

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 equity, a convertible note, or another fund;

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

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

(D) another form 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 of~~  
14 ~~higher education in this state;~~

15           [~~(3) the members of the Texas Workforce Commission;~~  
16           [~~(4)~~] a representative of the governor's office  
17 involved in economic development activities;

18           (2) [~~(5)~~] a representative of the lieutenant governor's  
19 office involved in economic development activities;

20           (3) [~~(6)~~] a representative of the office of the speaker  
21 of the house involved in economic development activities; and

22           (4) [~~(7)~~] other persons considered appropriate by the  
23 governor.

24           SECTION 5. Section 490.054, Government Code, as added by  
25 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
26 is amended to read as follows:

27           Sec. 490.054. TERMS. Members of the committee serve

1 staggered two-year terms, subject to the pleasure of the governor.

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

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

- 8 (1) the office of the governor;
- 9 (2) the Texas Higher Education Coordinating Board;
- 10 (3) the Texas Education Agency;
- 11 (4) the Texas Workforce Commission;
- 12 (5) another public entity represented by a committee  
13 member; ~~and~~
- 14 (6) gifts, grants, and donations for overhead expenses  
15 to the entities listed in Subdivisions (1)-(5); and
- 16 (7) subject to the approval of the governor,  
17 lieutenant governor, and speaker of the house of representatives,  
18 an amount not to exceed the greater of:

19 (A) 0.4 percent of the biennial appropriation for  
20 the fund for the biennium in which the money is used; or

21 (B) \$600,000 in any year.

22 SECTION 7. Sections 490.101(c), (f), and (g), Government  
23 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
24 Session, 2005, are amended to read as follows:

25 (c) The fund may be used only for:

- 26 (1) the purposes described by Section 490.002; and  
27 (2) necessary staff, administration of the fund

1 including administration by the office of the governor, and  
2 services related to the fund as provided for by Section 490.055.

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

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

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

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

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

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

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

27 (2) if, as of a date certain provided in the agreement,

1 the award [~~grant~~] recipient has not used the award received [~~grant~~  
2 ~~money awarded~~] under this chapter for the purposes for which the  
3 award [~~grant~~] was intended, the recipient shall repay that amount  
4 and any related interest applicable under the agreement to the  
5 state at the agreed rate and on the agreed terms.

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

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

12 (1) 50 percent of the money for incentives for  
13 collaboration between certain entities as provided by Subchapter D;

14 (2) 16.67 [~~25~~] percent of the money for research award  
15 [~~grant~~] matching as provided by Subchapter E; and

16 (3) 33.33 [~~25~~] percent of the money for acquisition of  
17 research superiority as provided by Subchapter F.

18 SECTION 9. Section 490.103(a), Government Code, as added by  
19 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
20 is amended to read as follows:

21 (a) The contract between the governor and a recipient of an  
22 award [~~awarded a grant~~] under this chapter shall provide for the  
23 distribution of royalties, revenue, or other financial benefits  
24 realized from the commercialization of intellectual or real  
25 property developed from any award [~~grant awarded~~] from the fund. To  
26 the extent authorized by law and not in conflict with another  
27 agreement, the contract shall appropriately allocate by

1 assignment, licensing, or other means the royalties, revenue, or  
2 other financial benefits among identifiable collaborating parties  
3 and in a specified percentage to this state for deposit in the fund.

4 SECTION 10. The heading to Subchapter D, Chapter 490, as  
5 added by Chapter 280, Acts of the 79th Legislature, Regular  
6 Session, 2005, is amended to read as follows:

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

9 SECTION 11. Section 490.151(a), Government Code, as added  
10 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
11 2005, is amended to read as follows:

12 (a) Amounts allocated from the fund for use as provided by  
13 this subchapter shall be reserved for incentives for private or  
14 nonprofit entities to collaborate with public or private  
15 institutions of higher education or other entities considered  
16 appropriate by the committee in this state on emerging technology  
17 projects with a demonstrable economic benefit to this state.

18 SECTION 12. Section 490.153, Government Code, as added by  
19 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
20 is amended to read as follows:

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

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

27 (2) may result in a medical or scientific

1 breakthrough;

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

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

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

10 (b) An amount not to exceed 2.5 percent of the amount  
11 allocated for a fiscal biennium for incentives under this  
12 subchapter may be invested directly in a regional center of  
13 innovation and commercialization as recommended by the committee to  
14 support commercialization activities.

15 SECTION 13. Section 490.155, Government Code, as added by  
16 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
17 is amended to read as follows:

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

24 SECTION 14. Section 490.156(a), Government Code, as added  
25 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
26 2005, is amended to read as follows:

27 (a) A person receiving [~~awarded~~] money from the fund under

1 this subchapter may use the money to expedite commercialization  
2 that will lead to an increase in high-quality jobs in this state and  
3 shall use the money in accordance with a contract between the person  
4 and the office of the governor [~~committee~~].

5 SECTION 15. The heading to Subchapter E, Chapter 490,  
6 Government Code, as added by Chapter 280, Acts of the 79th  
7 Legislature, Regular Session, 2005, is amended to read as follows:

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

9 SECTION 16. The heading to Section 490.201, Government  
10 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular  
11 Session, 2005, is amended to read as follows:

12 Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD [~~GRANT~~]  
13 MATCHING.

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

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

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

23 (2) are interdisciplinary;

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

26 (4) are likely to result in a medical or scientific  
27 breakthrough; or



1           (5) have a demonstrable economic development benefit  
2 to this state.

3           SECTION 18. Section 490.253(a), Government Code, as added  
4 by Chapter 280, Acts of the 79th Legislature, Regular Session,  
5 2005, is amended to read as follows:

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

8                   (1) creating new research superiority;

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

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

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

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

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

24                   (2) may result in a medical or scientific  
25 breakthrough;

26                   (3) are interdisciplinary;

27                   (4) have attracted or may attract federal and other

1 funding for research superiority;

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

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

6 SECTION 20. Section 490.255, Government Code, as added by  
7 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,  
8 is amended to read as follows:

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

15 SECTION 21. Section 490.303, Government Code, as added by  
16 Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005,  
17 is amended to read as follows:

18 Sec. 490.303. ELIGIBILITY OF CLEAN COAL PROJECT FOR MONEY.  
19 Notwithstanding any other provision of this subchapter, a clean  
20 coal project constitutes an opportunity for emerging technology  
21 suitable for consideration for an award [~~a grant~~] under Subchapter  
22 C, incentives as provided by Subchapter D, award [~~grant~~] matching  
23 as provided by Subchapter E, and acquisition of research  
24 superiority under Subchapter F.

25 SECTION 22. (a) The changes in law made by this Act to  
26 Sections 490.052 and 490.054, Government Code, as added by Chapter  
27 280, Acts of the 79th Legislature, Regular Session, 2005, apply

1 only to a member of the Texas Emerging Technology Advisory  
2 Committee for a term beginning on or after September 1, 2007.

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

8 SECTION 23. This Act takes effect September 1, 2007.