

By: Shapiro, Janek

S.B. No. 486

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. Subsection (b), Section 490.052, Government
5 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular
6 Session, 2005, 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
19 governor's office involved in economic development activities;

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

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

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

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

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

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

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

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

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

1 services and expenses related to the fund as provided for by Section
2 490.055.

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; and

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

26 (2) if, as of a date certain provided in the agreement,
27 the award [~~grant~~] recipient has not used the award received [~~grant~~

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

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

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

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

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

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

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

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

27 SECTION 9. Subsection (a), Section 490.103, Government

1 Code, as added by Chapter 280, Acts of the 79th Legislature, Regular
2 Session, 2005, is amended to read as follows:

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

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

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

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

21 (a) Amounts allocated from the fund for use as provided by
22 this subchapter shall be reserved for incentives for private or
23 nonprofit entities to collaborate with public or private
24 institutions of higher education or other entities considered
25 appropriate by the committee in this state on emerging technology
26 projects with a demonstrable economic benefit to this state.

27 SECTION 12. Section 490.153, Government Code, as added by

1 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
2 is amended to read as follows:

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

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

9 (2) may result in a medical or scientific
10 breakthrough;

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

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

17 (5) have a demonstrable economic development benefit
18 to this state.

19 (b) An amount not to exceed two percent of the amount
20 allocated for a fiscal biennium for incentives under this
21 subchapter may be invested directly in the regional centers of
22 innovation and commercialization as recommended by the committee
23 and approved by the governor, lieutenant governor, and speaker of
24 the house of representatives to support commercialization
25 activities.

26 SECTION 13. Section 490.155, 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. 490.155. GUARANTEE OF COMMERCIALIZATION OR
3 MANUFACTURING IN TEXAS. A person or entity receiving [~~awarded~~]
4 money from the fund under this subchapter must guarantee by
5 contract that a substantial percentage of any new or expanded
6 commercialization or manufacturing [~~of any real or intellectual~~
7 ~~product~~] resulting from the award will be established in this
8 state.

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

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

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

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

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

24 Sec. 490.201. USE OF MONEY FOR RESEARCH AWARD [~~GRANT~~]
25 MATCHING.

26 SECTION 17. Section 490.202, 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. 490.202. PRIORITY FOR FUNDING. In allocating
3 ~~[awarding]~~ money from the fund under this subchapter, priority
4 shall be given to proposals that accelerate commercialization into
5 production by targeting programs that:

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

8 (2) are interdisciplinary;

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

11 (4) are likely to result in a medical or scientific
12 breakthrough; or

13 (5) have a demonstrable economic development benefit
14 to this state.

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

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

20 (1) creating new research superiority;

21 (2) attracting existing research superiority from
22 institutions not located in this state and other research entities;
23 or

24 (3) enhancing existing research superiority by
25 attracting from outside this state additional researchers and
26 resources.

27 SECTION 19. Section 490.254, Government Code, as added by

1 Chapter 280, Acts of the 79th Legislature, Regular Session, 2005,
2 is amended to read as follows:

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

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

9 (2) may result in a medical or scientific
10 breakthrough;

11 (3) are interdisciplinary;

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

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

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

18 SECTION 20. Section 490.255, 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. 490.255. AUTHORIZED EXPENSES. Money allocated
22 [~~awarded~~] from the fund under this subchapter may be used for
23 research and research capability acquisition, including salaries
24 and benefits, travel, consumable supplies, other operating
25 expenses, capital equipment, and construction or renovation of
26 facilities.

27 SECTION 21. (a) The changes in law made by this Act to

1 Sections 490.052 and 490.054, Government Code, as added by Chapter
2 280, Acts of the 79th Legislature, Regular Session, 2005, apply
3 only to a member of the Texas Emerging Technology Advisory
4 Committee for a term beginning on or after September 1, 2007.

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

10 SECTION 22. This Act takes effect September 1, 2007.