

By: Ortiz, Jr.

H.B. No. 3329

A BILL TO BE ENTITLED

AN ACT

relating to funds promoting economic development.

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

SECTION 1. Section 481.072, Government Code, is amended by adding Subdivision (5) to read as follows:

(5) "Board" means the Texas Enterprise Fund Board.

SECTION 2. Sections 481.078(a), (c), (e), (e-1), (h), and (i), Government Code, are amended to read as follows:

(a) The Texas Enterprise Fund is an ~~a dedicated~~ account in the general revenue fund.

(c) The ~~[Except as provided by Subsection (d), the]~~ fund may be used ~~[only]~~ for economic development, infrastructure development, community development, job training programs, and business incentives.

(e) The administration of the fund is a function of ~~[considered to be a trustee program within]~~ the office of the governor. The governor may negotiate on behalf of the state regarding awarding, by grant, money appropriated from the fund. The governor may award money appropriated from the fund only with the ~~[express written]~~ prior approval of the board ~~[lieutenant governor and speaker of the house of representatives]~~.

(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

1 which the entity was formed or organized, as evidenced by a  
2 certificate issued by the secretary of state or the state official  
3 having custody of the records pertaining to entities or other  
4 organizations formed under the laws of that state; ~~and~~

5 (2) owe no delinquent taxes to a taxing unit of this  
6 state; and

7 (3) provide health care benefits to all of its  
8 employees.

9 (h) The governor, after consultation with the board  
10 ~~[speaker of the house of representatives and the lieutenant~~  
11 ~~governor]~~, shall determine:

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

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

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

24 SECTION 3. Subchapter E, Chapter 481, Government Code, is  
25 amended by adding Section 481.0785 to read as follows:

26 Sec. 481.0785. TEXAS ENTERPRISE FUND BOARD. (a) The Texas  
27 Enterprise Fund Board is composed of nine directors appointed by

1 the governor with the advice and consent of the senate. Directors  
2 must be appointed from the economic development and tourism regions  
3 established by the office of the governor as of January 1, 2009, as  
4 follows:

5           (1) one director from the West Texas/Upper Rio Grande  
6 Region;

7           (2) one director from the North Texas Region;

8           (3) one director from the East Texas Region;

9           (4) one director from the Central Texas Region;

10          (5) one director from the Gulf Coast Region;

11          (6) one director from the Lower South Texas Region;

12          (7) one director from the South Texas Region; and

13          (8) two directors representing the entire state from  
14 any one or more regions.

15          (b) The governor shall appoint a director as presiding  
16 officer of the board.

17          (c) Directors serve staggered two-year terms.

18          (d) Necessary staff and funding for the board shall be  
19 provided by:

20               (1) the office of the governor; and

21               (2) gifts, grants, and donations for overhead expenses  
22 to the office of the governor.

23          (e) The board shall review and must approve each award of  
24 money from the fund.

25          SECTION 4. Section 490.001(1), Government Code, is amended  
26 to read as follows:

27               (1) "Board" [~~"Committee"~~] means the Texas Emerging

1 Technology Advisory Board [~~Committee~~].

2 SECTION 5. Subchapter B, Chapter 490, Government Code, is  
3 amended to read as follows:

4 SUBCHAPTER B. TEXAS EMERGING TECHNOLOGY BOARD [~~ADVISORY COMMITTEE~~]

5 Sec. 490.051. COMPOSITION OF BOARD [~~COMMITTEE~~]. The Texas  
6 Emerging Technology Advisory Board [~~Committee~~] is composed of nine  
7 directors appointed by the governor with the advice and consent of  
8 the senate, as provided by Section 490.052 [~~17 members~~].

9 Sec. 490.052. NOMINATION AND APPOINTMENT [~~BY GOVERNOR,~~  
10 ~~NOMINATIONS~~]. (a) The governor shall appoint to the board  
11 [~~committee~~] individuals nominated as provided by Subsection (b) as  
12 provided by Subsection (e).

13 (b) The following persons may nominate one or more  
14 individuals who are industry leaders in this state or who are  
15 nationally recognized leaders from public or private institutions  
16 of higher education in this state for appointment to the board  
17 [~~committee~~]:

18 (1) a president of a public or private institution of  
19 higher education in this state;

20 (2) a representative of the governor's office involved  
21 in economic development activities;

22 (3) a representative of the lieutenant governor's  
23 office involved in economic development activities;

24 (4) a representative of the office of the speaker of  
25 the house involved in economic development activities; and

26 (5) other persons considered appropriate by the  
27 governor.

1 (c) The governor may prescribe a date after which a  
2 nomination under Subsection (b) for appointment for the next term  
3 will not be considered.

4 (d) If an insufficient number of qualified individuals are  
5 nominated as provided by Subsection (b) before the date set by the  
6 governor under Subsection (c), the governor may appoint any  
7 qualified individual to the board for that term.

8 (e) From the persons nominated as provided by this section,  
9 the governor shall appoint directors from the regional centers of  
10 innovation and commercialization of the fund as established by the  
11 office of the governor as of January 1, 2009, as follows:

12 (1) one director from the West Texas Coalition for  
13 Innovation and Commercialization;

14 (2) one director from the North Texas Regional Center  
15 for Innovation and Commercialization;

16 (3) one director from the Gulf Coast Regional Center  
17 of Innovation and Commercialization;

18 (4) one director from the Central Texas Regional  
19 Center of Innovation and Commercialization;

20 (5) one director from the South Texas Regional Center  
21 of Innovation and Commercialization;

22 (6) one director from the Rio Grande Regional Center  
23 for Innovation and Commercialization;

24 (7) one director from the El Paso/Trans-Pecos Regional  
25 Center of Innovation and Commercialization; and

26 (8) two directors representing the entire state from  
27 any one or more regions.

1           Sec. 490.053. PRESIDING OFFICER [~~MEMBER~~]. The governor  
2 shall appoint a director as presiding officer [~~member~~] of the board  
3 [~~committee~~].

4           Sec. 490.054. TERMS. Directors [~~Members~~] of the board  
5 [~~committee~~] serve staggered two-year terms[, ~~subject to the~~  
6 ~~pleasure of the governor~~].

7           Sec. 490.055. STAFF AND FUNDING. Necessary staff and  
8 funding for the administration of the fund and the board shall be  
9 provided by:

- 10                   (1) the office of the governor; and  
11                   (2) gifts, grants, and donations for overhead expenses  
12 to the office of the governor.

13           Sec. 490.056. RECOMMENDATIONS FOR FUNDING. (a) The board  
14 [~~committee~~] shall make recommendations, through peer review and  
15 evaluation processes established by the board [~~committee~~], to the  
16 governor, lieutenant governor, and speaker of the house of  
17 representatives for the award of money from the fund as provided by  
18 this chapter.

19           (b) The board [~~committee~~] may establish advisory panels of  
20 knowledgeable individuals from industry, state government, or  
21 academic occupations to assist in peer review activities under this  
22 chapter.

23           Sec. 490.0565. REVIEW AND APPROVAL BY BOARD. The board shall  
24 review and must approve each award of money from the fund.

25           Sec. 490.057. CONFIDENTIALITY. Information collected by  
26 the governor's office, the board [~~committee~~], or the board's  
27 [~~committee's~~] advisory panels concerning the identity, background,

1 finance, marketing plans, trade secrets, or other commercially or  
2 academically sensitive information of an individual or entity being  
3 considered for an award from the fund is confidential unless the  
4 individual or entity consents to disclosure of the information.

5 SECTION 6. Section 490.101, Government Code, is amended by  
6 amending Subsections (a), (c), (d), and (f) and adding Subsection  
7 (f-1) to read as follows:

8 (a) The Texas emerging technology fund is an ~~[a dedicated]~~  
9 account in the general revenue fund.

10 (c) The fund may be used ~~[only]~~ for:

11 (1) the purposes described by Section 490.002; and

12 (2) necessary staff, administration of the fund  
13 including administration by the office of the governor, and  
14 services and expenses related to the fund as provided for by Section  
15 490.055.

16 (d) The board ~~[committee]~~ may solicit and accept gifts and  
17 grants for the fund from public and private entities.

18 (f) The administration of the fund is a function of  
19 ~~[considered to be a trustee program within]~~ the office of the  
20 governor. The governor may negotiate on behalf of the state  
21 regarding awards from the fund. The governor may award money  
22 appropriated from the fund only with the ~~[express written]~~ prior  
23 approval of the board ~~[lieutenant governor and speaker of the house~~  
24 ~~of representatives]~~.

25 (f-1) To be eligible to receive an award under this chapter,  
26 an entity must provide health care benefits to all of its employees.

27 SECTION 7. Section 490.151(b), Government Code, is amended

1 to read as follows:

2 (b) The board may [~~committee shall~~] recommend and must  
3 approve proposals eligible for funding under this section [~~to the~~  
4 ~~governor, lieutenant governor, and speaker of the house of~~  
5 ~~representatives~~].

6 SECTION 8. Sections 490.152(a) and (d), Government Code,  
7 are amended to read as follows:

8 (a) In recommending proposals for funding, the board  
9 [~~committee~~] shall give specific emphasis to the formation of  
10 regional centers of innovation and commercialization.

11 (d) Subject to the availability of suitable partners and  
12 resources, the board [~~committee~~] shall propose and initiate the  
13 establishment of a regional center of innovation and  
14 commercialization in:

- 15 (1) Harris County;  
16 (2) Lubbock County;  
17 (3) Bexar County;  
18 (4) the Dallas-Fort Worth Metroplex;  
19 (5) El Paso County;  
20 (6) the Middle and Lower Rio Grande Valley; and  
21 (7) other suitable locations as determined by the  
22 governor in consultation with the board [~~lieutenant governor and~~  
23 ~~the speaker of the house of representatives~~].

24 SECTION 9. Section 490.153(b), Government Code, is amended  
25 to read as follows:

26 (b) An amount not to exceed two percent of the amount  
27 allocated for a fiscal biennium for incentives under this



1 subchapter may be invested directly in the regional centers of  
2 innovation and commercialization as recommended [~~by the committee~~]  
3 and approved by the board and the governor [~~, lieutenant governor,~~  
4 ~~and speaker of the house of representatives~~] to support  
5 commercialization activities.

6 SECTION 10. Section 490.201(b), Government Code, is amended  
7 to read as follows:

8 (b) The board may [~~committee shall~~] recommend and must  
9 approve, along with the governor, proposals eligible for funding  
10 under this section [~~to the governor, lieutenant governor, and~~  
11 ~~speaker of the house of representatives~~].

12 SECTION 11. Section 490.253, Government Code, is amended to  
13 read as follows:

14 Sec. 490.253. PROPOSALS FOR FUNDING. (a) The board  
15 [~~committee~~] shall review and must approve, along with the governor,  
16 [~~consider~~] proposals by public institutions of higher education  
17 for:

- 18 (1) creating new research superiority;
- 19 (2) attracting existing research superiority from  
20 institutions not located in this state and other research entities;  
21 or
- 22 (3) enhancing existing research superiority by  
23 attracting from outside this state additional researchers and  
24 resources.

25 (b) The board [~~committee~~] shall recommend and must approve,  
26 along with the governor, proposals eligible for funding under  
27 Section 490.251 and proposals solicited and identified under this

1 section ~~[to the governor, lieutenant governor, and speaker of the~~  
2 ~~house of representatives]~~.

3 SECTION 12. Section 490.257(b), Government Code, is amended  
4 to read as follows:

5 (b) The governor, with the ~~[express written]~~ prior approval  
6 of the board ~~[lieutenant governor and the speaker of the house of~~  
7 ~~representatives]~~, may terminate funding to an institution if the  
8 institution fails to realize a benefit specified in the contract  
9 before a time specified in the contract, as determined by a periodic  
10 program review conducted by the board ~~[committee]~~.

11 SECTION 13. Section 490.302, Government Code, is amended to  
12 read as follows:

13 Sec. 490.302. USE OF MONEY FOR CLEAN COAL  
14 PROJECT. (a) Notwithstanding Section 490.102, the governor may  
15 allocate money appropriated to the fund by the legislature to  
16 provide matching money for a clean coal project as described by  
17 Section 2305.037 if the governor has the ~~[express written]~~ prior  
18 approval of the board ~~[lieutenant governor and the speaker of the~~  
19 ~~house of representatives]~~ to do so.

20 (b) The governor may allocate proceeds deposited in the fund  
21 as provided by an agreement described by Section 490.103 to provide  
22 matching money for a clean coal project as described by Section  
23 2305.037 if the governor has the ~~[express written]~~ prior approval  
24 of the board ~~[lieutenant governor and the speaker of the house of~~  
25 ~~representatives]~~ to do so.

26 SECTION 14. Section 204.123, Labor Code, is amended to read  
27 as follows:

1           Sec. 204.123. TRANSFER TO [~~TEXAS ENTERPRISE FUND,~~] SKILLS  
2 DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION  
3 FUND. (a) If, on September 1 of a year, the commission determines  
4 that the amount in the compensation fund will exceed 100 percent of  
5 its floor as computed under Section 204.061 on the next October 1  
6 computation date, the commission shall transfer from the holding  
7 fund created under Section 204.122[~~+~~

8           ~~[(1) from the first \$160 million deposited in the~~  
9 ~~holding fund in any state fiscal biennium:~~

10           ~~[(A) during the state fiscal biennium ending~~  
11 ~~August 31, 2007:~~

12           ~~[(i) 67 percent to the Texas Enterprise~~  
13 ~~Fund created under Section 481.078, Government Code, except that~~  
14 ~~the amount transferred under this paragraph may not exceed the~~  
15 ~~amount appropriated by the legislature to the Texas Enterprise Fund~~  
16 ~~in that biennium; and~~

17           ~~[(ii) 33 percent to the skills development~~  
18 ~~fund created under Section 303.003, except that the amount~~  
19 ~~transferred under this paragraph may not exceed the amount~~  
20 ~~appropriated by the legislature to the skills development program~~  
21 ~~strategies and activities in that biennium; and~~

22           ~~[(B) during any state fiscal biennium beginning~~  
23 ~~on or after September 1, 2007:~~

24           ~~[(i) 75 percent to the Texas Enterprise~~  
25 ~~Fund created under Section 481.078, Government Code, except that~~  
26 ~~the amount transferred under this paragraph may not exceed the~~  
27 ~~amount appropriated by the legislature to the Texas Enterprise Fund~~

1 ~~in that biennium, and~~

2                               ~~[(ii)]~~ 25 percent to the skills development  
3 fund created under Section 303.003, except that the amount  
4 transferred under this paragraph may not exceed the amount  
5 appropriated by the legislature to the skills development program  
6 strategies and activities in that biennium~~+~~ and

7                               ~~[(2)]~~ any remaining amount in the holding fund ~~[after~~  
8 ~~the distribution under Subdivision (1)]~~ to the training  
9 stabilization fund created under Section 302.101.

10           (b) If, on September 1 of a year, the commission determines  
11 that the amount in the compensation fund will be at or below 100  
12 percent of its floor as computed under Section 204.061 on the next  
13 October 1 computation date, the commission shall transfer to the  
14 compensation fund as much of the amount in the holding fund as is  
15 necessary to raise the amount in the compensation fund to 100  
16 percent of its floor, up to and including the entire amount in the  
17 holding fund. The commission shall transfer any remaining balance  
18 in the holding fund to the ~~[Texas Enterprise Fund, the]~~ skills  
19 development fund~~+~~ and the training stabilization fund in the  
20 percentages prescribed by Subsection (a).

21           SECTION 15. Section 302.101(c), Labor Code, is amended to  
22 read as follows:

23           (c) Money in the training stabilization fund shall be  
24 transferred to ~~[the Texas Enterprise Fund and]~~ the skills  
25 development fund under Subsection (b) not later than September  
26 30. The transfer under Subsection (b) shall consist of  
27 transferring ~~[67 percent of the money in the training stabilization~~

1 ~~fund to the Texas Enterprise Fund and]~~ 33 percent of the money in  
2 the training stabilization fund to the skills development  
3 fund. The amount transferred from the training stabilization fund  
4 may not exceed the amounts appropriated to the [~~Texas Enterprise~~  
5 ~~Fund and]~~ skills development program strategies and activities in  
6 the fiscal year in which the transfer is made.

7       SECTION 16. (a) The changes in law made by this Act to  
8 Chapter 481, Government Code, relating to the Texas Enterprise Fund  
9 apply to any grant awarded from that fund on or after the effective  
10 date of this Act, without regard to whether any actions in relation  
11 to the grant were commenced before that date.

12       (b) The changes in law made by this Act to Chapter 490,  
13 Government Code, relating to the Texas emerging technology fund  
14 apply to any award made from that fund on or after the effective  
15 date of this Act, without regard to whether any actions in relation  
16 to the award were commenced before that date.

17       SECTION 17. This Act takes effect September 1, 2009.