

SENATE AMENDMENTS

2nd Printing

By: Chavez, Pitts, Harless, Castro,
Leibowitz, et al.

H.B. No. 2531

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a reporting requirement regarding the Texas emerging
3 technology fund.

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

5 SECTION 1. Subchapter A, Chapter 490, Government Code, is
6 amended by adding Section 490.005 to read as follows:

7 Sec. 490.005. ANNUAL REPORT. (a) Not later than January 1
8 of each year, the governor shall submit to the legislature and post
9 on the office of the governor's Internet website a report that
10 includes the following information regarding the fund for the
11 preceding three state fiscal years:

12 (1) the total number and amount of awards made;

13 (2) the number and amount of awards made under
14 Subchapters D, E, and F;

15 (3) the aggregate total of private sector investment,
16 federal government funding, and contributions from other sources
17 obtained in connection with awards made under each of the
18 subchapters listed in Subdivision (2);

19 (4) the name of each award recipient and the amount of
20 the award made to the recipient; and

21 (5) a brief description of the equity position that
22 the governor, on behalf of the state, may take in companies
23 receiving awards and the names of the companies in which the state
24 has taken an equity position.

1 (b) The annual report must also contain a brief description
2 regarding:

3 (1) the intended outcomes of projects funded under
4 Subchapter D during the preceding two state fiscal years; and

5 (2) the actual outcomes of all projects funded under
6 Subchapter D during the fund's existence, including any financial
7 impact on the state resulting from a liquidity event involving a
8 company whose project was funded under that subchapter.

9 (c) The report may not include information that is made
10 confidential by law.

11 SECTION 2. Not later than January 1, 2011, the governor
12 shall submit the initial report required by Section 490.005,
13 Government Code, as added by this Act.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.

ADOPTED

MAY 22 2009

Atty Gen
Secretary of the Senate

By: *Ernesto Rojas*

H.B. No. 2531

Substitute the following for H.B. No. 2531:

By: *Nathan*

C.S.H.B. No. 2531

A BILL TO BE ENTITLED

1

AN ACT

2 relating to a reporting requirement regarding the Texas emerging
3 technology fund.

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

5 SECTION 1. Subchapter A, Chapter 490, Government Code, is
6 amended by adding Section 490.005 to read as follows:

7 Sec. 490.005. ANNUAL REPORT. (a) In this section,
8 "investment portfolio" means the stocks or other securities of the
9 fund that:

10 (1) are held by the governor from time to time; and

11 (2) were received by the governor in consideration for
12 an award made from the fund under Subchapter D.

13 (b) Not later than January 1 of each year, the governor
14 shall submit to the Legislative Budget Board and post on the office
15 of the governor's Internet website a report that includes the
16 following information regarding the fund for the preceding state
17 fiscal year:

18 (1) the total number and amount of awards made;

19 (2) the number and amount of awards made under
20 Subchapters D, E, and F;

21 (3) the name of each award recipient, the recipient's
22 organizational structure, and the amount of the awards made to the
23 recipient;

24 (4) the total amount of funds received by each

1 recipient from any source for a project that receives an award under
2 Subchapter D, including:
3 (A) the amount awarded to the recipient from the
4 fund;
5 (B) the total amount of any funds received by the
6 recipient from the private sector; and
7 (C) the amount of any federal grants or loans
8 received by the recipient;
9 (5) a brief description of the investments that
10 constitute the fund's investment portfolio as of the end of that
11 reporting period; and
12 (6) the total value of the fund's investment portfolio
13 as of the end of that reporting period.
14 (c) The annual report must also include aggregate
15 information regarding the planned and actual outcomes resulting
16 from awards made from the fund during the preceding two state fiscal
17 years.
18 (d) The governor may not disclose in the report required by
19 this section the name of any person in the private sector that
20 invests in a project receiving an award under Subchapter D.
21 (e) The governor shall notify each member of the legislature
22 by electronic mail when a new report required by this section is
23 posted on the office of the governor's Internet website. The
24 notification required by this subsection must be sent to the
25 electronic mail address provided to the member as a legislator and
26 must:
27 (1) contain an electronic copy of the report; or

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1 (2) include an electronic link to the report on the
2 website.

3 SECTION 2. Not later than January 1, 2011, the governor
4 shall submit the initial report required by Section 490.005,
5 Government Code, as added by this Act.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.

ADOPTED

MAY 22 2009

FLOOR AMENDMENT NO. 1

BY: *Atay Spaw*
Secretary of the Senate

1 Amend C.S.H.B. No. 2531 (senate committee printing) as
2 follows:

3 (1) In the recital to SECTION 1 of the bill (page 1, line
4 14), strike "Section 490.005" and substitute "Sections 490.005
5 and 490.006".

6 (2) In SECTION 1 of the bill (page 1, between lines 14 and
7 15), insert the following:

8 Sec. 490.005. AUTHORITY TO CONTRACT WITH AN OUTSIDE
9 ENTITY. (a) In this section, "investment portfolio" means the
10 stocks or other securities of the fund that:

11 (1) are held by the governor from time to time; and

12 (2) were received by the governor in consideration
13 for an award made from the fund under Subchapter D.

14 (b) The governor may contract with an outside entity to:

15 (1) assist in the negotiation and drafting of
16 contracts between the governor and a recipient of an award under
17 this chapter;

18 (2) oversee outstanding awards and monitor compliance
19 with a contract described by Subdivision (1);

20 (3) evaluate the fund's investment portfolio;

21 (4) advise the office of the governor regarding the
22 value and performance of the investment portfolio; and

23 (5) assist the governor in preparing the annual
24 report required by Section 490.006.

25 (c) A contract described by Subsection (b) may provide for
26 the outside entity to receive compensation from the fund each
27 year.

28 (d) An outside entity with which the governor contracts
29 under this section must have substantial experience in

1 evaluating institutional investment practices and performance in
2 order to evaluate fund investment practices and performance.

3 (3) In SECTION 1 of the bill, in added Section 490.005,
4 Government Code (page 1, line 15), strike "Sec. 490.005" and
5 substitute "Sec. 490.006".

6 (4) In SECTION 1 of the bill, strike added Section
7 490.005(a), Government Code (page 1, lines 15 through 20), and
8 substitute the following:

9 (a) In this section, "investment portfolio" has the
10 meaning assigned by Section 490.005.

11 (5) In SECTION 2 of the bill (page 1, line 62), strike
12 "Section 490.005" and substitute "Section 490.006".

13 (6) Add the following appropriately numbered SECTIONS to
14 the bill and renumber subsequent SECTIONS accordingly:

15 SECTION ____ . Section 490.057, Government Code, is
16 transferred to Subchapter A, Chapter 490, Government Code,
17 renumbered as Section 490.004, Government Code, and amended to
18 read as follows:

19 Sec. 490.004 [~~490.057~~]. CERTAIN INFORMATION CONFIDENTIAL
20 [~~CONFIDENTIALITY~~]. (a) Except as provided by Subsection (d),
21 this section applies to information in any form provided by or
22 on behalf of an individual or entity being considered for an
23 award from the fund or a recipient of an award from the fund,
24 including:

25 (1) information contained in, accompanying, or
26 derived from any application; and

27 (2) information [~~Information collected by the~~
28 ~~governor's office, the committee, or the committee's advisory~~
29 ~~panels~~] concerning the identity, background, finance, marketing
30 plans, trade secrets, or other commercially or academically
31 sensitive information of the [~~an~~] individual or entity [~~being~~

1 ~~considered for an award from the fund is confidential unless the~~
2 ~~individual or entity consents to disclosure of the information].~~

3 (b) The information described by Subsection (a) collected,
4 assembled, or maintained by or for the governor, the lieutenant
5 governor, the speaker of the house of representatives, the
6 committee, or the committee's advisory panels is confidential
7 and may not be disclosed under Chapter 552.

8 (c) Any application for an award from the fund that is
9 withdrawn by the applicant before the award is made or that is
10 denied shall be returned to the applicant promptly on request,
11 together with all materials submitted by or on behalf of the
12 applicant that relate to the application, except that a record
13 of the submission and disposition of the application that does
14 not include any information described by Subsection (a) may be
15 retained.

16 (d) Not later than the 10th business day after the date a
17 contract for an award from the fund is entered into under
18 Section 490.101, the governor's office shall prepare a summary
19 of the contract and shall make the summary available to the
20 public. The summary must include the award recipient's name and
21 address, the amount of funding applied for, and the type of
22 emerging technology to which the award relates. The summary
23 must not include any confidential information.

24 SECTION _____. Subsection (a), Section 490.102, Government
25 Code, is amended to read as follows:

26 (a) Money appropriated to the fund by the legislature,
27 less amounts necessary to administer the fund under Section
28 490.055, shall be allocated as follows:

29 (1) 60 [~~50~~] percent of the money for incentives for
30 collaboration between certain entities as provided by Subchapter
31 D;

1 (2) 10 [~~16.67~~] percent of the money for research
2 award matching as provided by Subchapter E; and

3 (3) 30 [~~33.33~~] percent of the money for acquisition
4 of research superiority as provided by Subchapter F.

5 SECTION _____. Subchapter C, Chapter 490, Government Code,
6 is amended by adding Section 490.104 to read as follows:

7 Sec. 490.104. TRANSFERS BETWEEN TEXAS EMERGING TECHNOLOGY
8 FUND AND TEXAS ENTERPRISE FUND. Notwithstanding any other law,
9 including an appropriations act, the governor may not, without
10 the prior written approval of the Legislative Budget Board:

11 (1) make an award or transfer otherwise authorized by
12 law from the Texas emerging technology fund to the Texas
13 Enterprise Fund under Section 481.078 for purposes of making a
14 grant or other expenditure from the Texas Enterprise Fund; or

15 (2) make a grant or transfer otherwise authorized by
16 law from the Texas Enterprise Fund to the Texas emerging
17 technology fund for purposes of making an award or other
18 expenditure from the Texas emerging technology fund.

19 SECTION _____. Subsection (a), Section 490.253, Government
20 Code, is amended to read as follows:

21 (a) The committee shall review and consider proposals by
22 public institutions of higher education for:

23 (1) creating new research superiority;

24 (2) attracting existing research superiority from
25 institutions of higher education not located in this state [~~and~~
26 ~~other research entities~~]; [~~or~~]

27 (3) attracting existing research superiority from
28 entities other than institutions of higher education, whether
29 those entities are located in or outside this state;

30 (4) enhancing existing research superiority by
31 attracting from institutions of higher education located outside

1 this state additional researchers and resources; or

2 (5) enhancing existing research superiority by

3 attracting additional researchers and resources from entities

4 other than institutions of higher education, whether those

5 entities are located in or outside this state.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2531 by Chavez (Relating to a reporting requirement regarding the Texas emerging technology fund.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would implement a recommendation in the Legislative Budget Board *Government Effectiveness and Efficiency Report* entitled "Improve Accountability for the Texas Emerging Technology Fund."

The bill would allow the governor to obtain assistance from an outside entity in negotiating contracts with award recipients; and to oversee and monitor contracts, prepare the annual report; and provide Emerging Technology Fund (ETF) investment portfolio advice and evaluation. The outside entity would receive compensation from the ETF.

The bill would require the governor to submit an annual report which shows the actual performance of the ETF in terms of private investment and federal grants or loans received by award recipients. Information would be provided in the report about the aggregate planned and actual outcomes resulting from awards made during preceding fiscal year. The annual report would identify the awards made from the ETF to each recipient, as well as the total award amounts provided under the commercialization, matching, and research superiority programs.

The annual report would contain information about the ETF's investment portfolio, specifically: a brief description of the investments in the portfolio, the value of each investment, and the portfolio's total value as of the reporting period's ending date. The governor would be required to submit the annual report to the Legislative Budget Board and post it on the office of the governor's website. Once posted, the governor would be required to send email messages to members of the legislature that provide an electronic copy of the report and a link to report on the office of the governor's website. The governor would be required to submit the first annual report no later than January 1, 2011.

The bill would alter the allocations for commercialization, research matching, and research superiority programs to 60 percent, 10 percent, and 30 percent, respectively, from 50 percent, 16.67 percent, and 33.33 percent of the fund's appropriation (less administrative costs). The governor would still be able to adjust allocations with prior approval of the lieutenant governor and speaker of the house of representatives.

The bill would prohibit the governor from making an award or transfer from the Texas Emerging Technology Fund to the Texas Enterprise Fund in order to make a grant or other expenditure from the Texas Enterprise Fund without prior written approval of the Legislative Budget Board. It would also prohibit the governor from making a grant or transfer from the Texas Enterprise Fund to the Texas Emerging Technology Fund in order to make an award or other expenditure from the Texas Emerging Technology Fund without the previously mentioned approval.

The bill contains provisions making certain information related to award recipients confidential and requiring the governor to make award contract summaries

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, JRO, JI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Chris Harris, Chair, Senate Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2531 by Chavez (Relating to a reporting requirement regarding the Texas emerging technology fund.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would implement a recommendation in the Legislative Budget Board *Government Effectiveness and Efficiency Report* entitled "Improve Accountability for the Texas Emerging Technology Fund."

The bill would require the governor to submit an annual report which shows the award allocations and actual performance of the Emerging Technology Fund (ETF). The annual report would show the ETF's total number and amount of awards. For each of the ETF's programs (commercialization, matching, and research superiority), the annual report would identify the program's total award amounts; the awards made to each recipient; their organizational structure; and the amounts received from any source besides the ETF.

For the commercialization program, the report would identify each company's ETF award, as well as its funding from the private sector and the federal government. Also, the report would include a brief description of each commercialization program investment, and the total value of the investment portfolio, as of the reporting period's ending date.

Information would be provided in the report about the aggregate planned and actual outcomes resulting from awards made during the last two fiscal years.

The governor would be required to submit the annual report to the Legislative Budget Board and post it on the office of the governor's website. Once posted, the governor would be required to send email messages to members of the legislature that provide an electronic copy of the report or a link to report on the office of governor's website.

The governor would be required to submit the first annual report no later than January 1, 2011. All subsequent annual reports would be submitted by January 1 of each year.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor

LBB Staff: JOB, JRO, JI, RN, BTA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Chris Harris, Chair, Senate Committee on Economic Development

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2531 by Chavez (Relating to a reporting requirement regarding the Texas emerging technology fund.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would implement a recommendation in the Legislative Budget Board *Government Effectiveness and Efficiency Report* entitled "Improve Accountability for the Texas Emerging Technology Fund."

The bill would require the governor to submit an annual report containing performance metrics such as the aggregate amount of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under any of the Emerging Technology Fund's (ETF) programs -- commercialization, matching, and research superiority; as well as the amount of ETF awards received by each award recipient for the past three fiscal years. The annual report would be distributed to the legislature and posted on the governor's office website no later than January 1 of each year. The first report is due no later than January 1, 2011.

The bill would require ETF annual reports to identify the planned and actual outcomes associated with the commercialization program for the last two fiscal years, including any financial impact on the state resulting from a company awardee being bought out or otherwise acquired by another company (known as a liquidity event).

Finally, the bill would require ETF annual reports to provide a brief description of the equity position which the governor may take in companies that get commercialization awards, and the names of companies in which the governor has taken an equity position during the past three fiscal years.

The bill would take effect immediately if it received the requisite two-thirds vote of each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor

LBB Staff: JOB, JRO, JI, RN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Mark Strama, Chair, House Committee on Technology, Economic Development & Workforce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2531** by Chavez (Relating to a reporting requirement regarding the Texas emerging technology fund.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would implement a recommendation in the Legislative Budget Board *Government Effectiveness and Efficiency Report* entitled "Improve Accountability for the Texas Emerging Technology Fund."

The bill would require the governor to submit an annual report containing performance metrics such as the aggregate amount of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under any of the Emerging Technology Fund's (ETF) programs -- commercialization, matching, and research superiority; as well as the amount of ETF awards received by each award recipient for the past three fiscal years. The annual report would be distributed to the legislature and posted on the governor's office website no later than January 1 of each year. The first report is due no later than January 1, 2011.

The bill would require ETF annual reports to identify the planned and actual outcomes associated with the commercialization program for the last two fiscal years, including any financial impact on the state resulting from a company awardee being bought out or otherwise acquired by another company (known as a liquidity event).

Finally, the bill would require ETF annual reports to provide a brief description of the equity position which the governor may take in companies that get commercialization awards, and the names of companies in which the governor has taken an equity position during the past three fiscal years.

The bill would take effect immediately if it received the requisite two-thirds vote of each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor

LBB Staff: JOB, JRO, JI, RN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 19, 2009

TO: Honorable Mark Strama, Chair, House Committee on Technology, Economic Development & Workforce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2531** by Chavez (Relating to a reporting requirement regarding the Texas emerging technology fund.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would implement a recommendation in the Legislative Budget Board *Government Effectiveness and Efficiency Report* entitled "Improve Accountability for the Texas Emerging Technology Fund." The bill would require the governor to submit an annual report containing performance metrics such as the amount of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under any of the Emerging Technology Fund's (ETF) programs -- commercialization, matching, and research superiority; as well as the amount of ETF awards received by each award recipient for the past three fiscal years. The annual report would be distributed to the legislature and posted on the governor's office website no later than January 1 of each year. The first report is due no later than January 1, 2011.

The bill would require ETF annual reports to identify the planned and actual outcomes associated with the commercialization program for the last two fiscal years.

Finally, the bill would require ETF annual reports to provide a brief description of the equity position which the governor may take in companies that get commercialization awards, and the names of companies in which the governor has taken an equity position during the past three fiscal years.

The bill would take effect immediately if it received the requisite two-thirds vote of each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor

LBB Staff: JOB, JRO, JI, RN