

## **BILL ANALYSIS**

S.B. 1175  
By: Jackson  
Economic & Small Business Development  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The administration of the Texas Enterprise Fund and Texas emerging technology fund are considered to be trustee programs within the office of the governor. The governor may award money appropriated from the funds only with the prior approval of the lieutenant governor and speaker of the house of representatives. Currently, there are no deadlines for approving an award of money from the funds. S.B. 1175 seeks to implement a timeline for Texas Enterprise Fund and emerging technology fund applications to be approved by the governor, lieutenant governor, and the speaker of the house of representatives. The bill also seeks to improve transparency and accountability at all levels of the emerging technology fund grant and award processes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1175 amends the Government Code to remove the specification that the prior approval of the lieutenant governor and the speaker of the house of representatives with which the governor may award money appropriated from the Texas Enterprise Fund or the Texas emerging technology fund is the express written prior approval of the lieutenant governor and speaker of the house of representatives.

S.B. 1175 specifies that an award of money appropriated from the Texas Enterprise Fund or the Texas emerging technology fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award the grant or funding, as appropriate, before the 91st day after the date of receipt of the proposal from the governor. The bill authorizes the lieutenant governor or the speaker of the house of representatives to extend the review deadline applicable to that officer for an additional 14 days by submitting a written notice to that effect to the governor before the expiration of the initial review period.

S.B. 1175 requires a grant agreement regarding an award of money appropriated from the Texas Enterprise Fund to contain a provision requiring the creation of a minimum number of jobs in Texas and specifying the date by which the grant recipient intends to create those jobs. The bill requires the governor, at least 14 days before the date the governor intends to amend a grant agreement, to notify and provide a copy of the proposed amendment to the speaker of the house of representatives, the lieutenant governor, and the presiding officers of the standing committees of both houses of the legislature with primary jurisdiction over economic development.

S.B. 1175 requires the governor to submit the annual report regarding the Texas emerging technology fund to the lieutenant governor, the speaker of the house of representatives, and the standing committee of each house of the legislature with primary jurisdiction over economic

development matters, rather than to the legislature. The bill specifies that certain information included in the report is regarding awards made under the fund during each preceding state fiscal year, rather than for the preceding three state fiscal years. The bill specifies that this information includes the number and amount of awards made under the bill's provisions relating to strategic research initiative programs. The bill requires the annual report to contain, in addition to other items, the total number of jobs actually created by each project receiving funding for emerging technology, an analysis of the number of jobs actually created by the projects, and a brief description regarding the methodology used to provide that information, which is authorized to be developed in consultation with the offices of the comptroller of public accounts and the state auditor.

S.B. 1175 requires the office of the governor to annually perform a valuation of the equity positions taken by the governor, on behalf of the state, in companies receiving awards under the Texas emerging technology fund and of other investments made by the governor, on behalf of the state, in connection with an award under the fund. The bill requires the valuation to be based on a methodology that may be developed in consultation with the comptroller's and state auditor's offices and that is consistent with generally accepted accounting principles and requires the valuation to be included with the required annual report.

S.B. 1175 makes provisions relating to appointment by the governor to the Texas Emerging Technology Advisory Committee relate instead to appointment to that committee. The bill requires the governor to appoint to the committee 13 individuals, rather than 17 individuals, nominated as provided by provisions of law. The bill requires the lieutenant governor to appoint two senators to the committee and requires the speaker of the house of representatives to appoint two members of the house of representatives to the committee.

S.B. 1175 requires each member of the committee to file with the office of the governor a verified financial statement complying with statutory requirements for a financial statement submitted by a state officer as required by law.

S.B. 1175 makes provisions establishing that members of the committee serve staggered two-year terms, subject to the pleasure of the governor, apply to members appointed by the governor and establishes that members appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

S.B. 1175 requires each entity recommended by the committee for an award of money from the Texas emerging technology fund to obtain and provide the following information to the office of the governor: a federal criminal history background check for each principal of the entity, a state criminal history background check for each principal of the entity, a credit check for each principal of the entity, a copy of a government-issued form of photo identification for each principal of the entity, and information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law and the bill defines "principal," for the purposes of this provision, to mean an officer of an entity or a person who has at least a 10 percent ownership interest in an entity. The bill requires the governor, with each proposal to award funding submitted to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, to provide each officer with a copy of the information provided by the appropriate entity under these provisions.

S.B. 1175 makes an exception for its provisions to provisions establishing the confidentiality of commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received, rather than such an individual or entity being considered for, an award from the Texas emerging technology fund. The bill authorizes the following information collected by the governor's office, the committee, or the committee's advisory panels to be disclosed under the state's public information law:

- the name and address of an individual or entity being considered for, receiving, or having

received an award from the fund;

- the amount of funding applied for by an individual or entity being considered for an award or received by an award recipient;
- a brief description of the project that is the subject of an application for funding or that receives funding for emerging technology;
- if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and
- any other information designated by the committee with the consent of the individual or entity being considered for, receiving, or having received an award from the fund, as applicable, or the governor, the lieutenant governor, and the speaker of the house of representatives.

S.B. 1175, in provisions allocating money appropriated to the Texas emerging technology fund among three components of the fund, requires \$2 million deposited to the Texas emerging technology fund, each state fiscal biennium, to be allocated for making awards to companies that generate \$250,000 or less in annual gross revenue.

S.B. 1175 requires each regional center of innovation and commercialization established under provisions relating to incentives for commercialization activities, including the Texas Life Science Center for Innovation and Commercialization, to keep minutes of each meeting at which applications for funding are evaluated. The bill requires the minutes to include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding and to indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed. The bill requires each regional center of innovation and commercialization to retain a copy of the minutes of each meeting at which applications for funding are evaluated for at least three years.

S.B. 1175 authorizes the governor to allocate money appropriated to the Texas emerging technology fund by the legislature to provide grants to public or private institutions of higher education in Texas for the creation of strategic research initiative programs. The bill requires the Texas Emerging Technology Advisory Committee to recommend proposals eligible for funding under these provisions to the governor, lieutenant governor, and speaker of the house of representatives and prohibits the amount allocated for funding proposals from exceeding \$2 million in any state fiscal biennium. The bill requires the committee, in recommending proposals for funding, to give specific emphasis to programs designed to provide financial assistance to enable professors, researchers, and other employees of public or private institutions of higher education to obtain an increased amount of federal grant money for research in Texas.

S.B. 1175 requires, in funding proposals for strategic research initiative programs, priority to be given to proposals that strengthen Texas' competitiveness in obtaining federal grant money for research and the bill requires priority for funding to be given to creating programs designed for and intended to achieve this purpose; funding travel for professors, researchers, and other employees of public or private institutions of higher education in Texas; and allowing public or private institutions of higher education in Texas to engage in innovative efforts to achieve this purpose.

S.B. 1175 requires an institution of higher education participating in a strategic research initiative program that receives funding under the bill's provisions to guarantee by contract with the governor's office that the institution will perform specific actions expected to provide benefits to Texas. The bill requires an institution of higher education, if the institution fails to perform an action guaranteed by contract before a time specified by the contract, to return to the fund the grant money received by the institution. The bill authorizes money awarded from the fund under the bill's provisions relating to strategic research initiative programs to be used for

authorized expenses, including salaries and benefits, travel, consumable supplies, other operating expenses, capital equipment, construction or renovation of state or private facilities, and workforce training.

S.B. 1175 amends the Labor Code to prohibit money in the unemployment compensation fund from being transferred to the Texas Enterprise Fund or the Texas emerging technology fund. The bill updates and makes conforming changes in Texas Unemployment Compensation Act provisions requiring the Texas Workforce Commission to transfer certain funds from the holding fund and the training stabilization fund to the Texas Enterprise Fund.

S.B. 1175 makes its provisions applicable to a proposal for an award submitted for prior approval, a grant agreement entered into, or an award made, as appropriate, on or after the effective date of the bill. The bill establishes that the terms of the members of the Texas Emerging Technology Advisory Committee serving immediately before the effective date of the bill expire September 1, 2011, and requires appointments to the committee to be made as prescribed by the bill's provisions as soon as practicable after the effective date of the bill. The bill provides for the terms of the members of the committee to be determined at the first meeting of the members occurring on or after September 1, 2011.

**EFFECTIVE DATE**

September 1, 2011.