

AN ACT

relating to the Texas Enterprise Fund and the Texas emerging technology fund.

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

SECTION 1. Section 481.078, Government Code, is amended by amending Subsections (e) and (j) and adding Subsections (f-1), (f-2), and (h-1) to read as follows:

(e) The administration of the fund is 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 lieutenant governor and speaker of the house of representatives. For purposes of this subsection, an award of money appropriated from the 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 before the 91st day after the date of receipt of the proposal from the governor. The lieutenant governor or the speaker of the house of representatives may 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.

(f-1) A grant agreement must contain a provision:

1 (1) requiring the creation of a minimum number of jobs
2 in this state; and

3 (2) specifying the date by which the recipient intends
4 to create those jobs.

5 (f-2) A grant agreement must contain a provision providing
6 that if the recipient does not meet job creation performance
7 targets as of the dates specified in the agreement, the recipient
8 shall repay the grant in accordance with Subsection (j).

9 (h-1) At least 14 days before the date the governor intends
10 to amend a grant agreement, the governor shall notify and provide a
11 copy of the proposed amendment to the speaker of the house of
12 representatives and the lieutenant governor.

13 (j) Repayment of a grant under Subsection (f)(1)(A) shall
14 [may] be prorated to reflect a partial attainment of job creation
15 performance targets, and may be prorated for a partial attainment
16 of other performance targets.

17 SECTION 2. Sections 490.005(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) Not later than January 31 [~~1~~] of each year, the governor
20 shall submit to the lieutenant governor, the speaker of the house of
21 representatives, and the standing committee of each house of the
22 legislature with primary jurisdiction over economic development
23 matters and post on the office of the governor's Internet website a
24 report that includes the following information regarding awards
25 made under the fund during each [~~for the~~] preceding [~~three~~]
26 fiscal year [~~years~~]:

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

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

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

7 (4) the name of each award recipient and the amount of
8 the award made to the recipient; and

9 (5) a brief description of the equity position that
10 the governor, on behalf of the state, may take in companies
11 receiving awards and the names of the companies in which the state
12 has taken an equity position.

13 (b) The annual report must also contain:

14 (1) the total number of jobs actually created by each
15 project receiving funding under this chapter;

16 (2) an analysis of the number of jobs actually created
17 by each project receiving funding under this chapter; and

18 (3) a brief description regarding:

19 (A) the methodology used to determine the
20 information provided under Subdivisions (1) and (2), which may be
21 developed in consultation with the comptroller's office;

22 (B) [~~1~~] the intended outcomes of projects
23 funded under Subchapter D during each [~~the~~] preceding [~~two~~] state
24 fiscal year [~~years~~]; and

25 (C) [~~2~~] the actual outcomes of all projects
26 funded under Subchapter D during each preceding state fiscal year
27 [~~the fund's existence~~], including any financial impact on the state

1 resulting from a liquidity event involving a company whose project
2 was funded under that subchapter.

3 SECTION 3. Subchapter A, Chapter 490, Government Code, is
4 amended by adding Section 490.006 to read as follows:

5 Sec. 490.006. VALUATION OF INVESTMENTS; INCLUSION IN ANNUAL
6 REPORT. To the maximum extent practicable, the office of the
7 governor shall annually perform a valuation of the equity positions
8 taken by the governor, on behalf of the state, in companies
9 receiving awards under the fund and of other investments made by the
10 governor, on behalf of the state, in connection with an award under
11 the fund. The valuation must:

12 (1) be based on a methodology that:

13 (A) may be developed in consultation with the
14 comptroller's office; and

15 (B) is consistent with generally accepted
16 accounting principles; and

17 (2) be included with the annual report required under
18 Section 490.005.

19 SECTION 4. The heading to Section 490.052, Government Code,
20 is amended to read as follows:

21 Sec. 490.052. APPOINTMENT TO COMMITTEE [~~BY GOVERNOR~~];
22 NOMINATIONS.

23 SECTION 5. Section 490.052, Government Code, is amended by
24 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
25 read as follows:

26 (a) The governor shall appoint to the committee 13
27 individuals nominated as provided by Subsection (b).

1 (a-1) The lieutenant governor shall appoint two individuals
2 to the committee.

3 (a-2) The speaker of the house of representatives shall
4 appoint two individuals to the committee.

5 SECTION 6. Subchapter B, Chapter 490, Government Code, is
6 amended by adding Section 490.0521 to read as follows:

7 Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. (a) Each
8 member of the committee shall file with the office of the governor a
9 verified financial statement complying with Sections 572.022
10 through 572.0252 as is required of a state officer by Section
11 572.0252.

12 (b) All information obtained and maintained pursuant to
13 Subsection (a), including information derived from the financial
14 statements, is confidential and is not subject to disclosure under
15 Chapter 552, Government Code.

16 (c) The governor, on request or in the normal course of
17 official business, shall provide information that is confidential
18 under Subsection (b) to the Texas State Auditor's Office.

19 (d) This section does not affect release of information for
20 legislative purposes pursuant to Section 552.008, Government Code.

21 SECTION 7. Section 490.054, Government Code, is amended to
22 read as follows:

23 Sec. 490.054. TERMS. (a) Members of the committee
24 appointed by the governor serve staggered two-year terms, subject
25 to the pleasure of the governor.

26 (b) Members of the committee appointed by the lieutenant
27 governor or the speaker of the house of representatives serve

1 two-year terms.

2 SECTION 8. Section 490.056, Government Code, is amended by
3 adding Subsections (c), (d), and (e) to read as follows:

4 (c) Each entity recommended by the committee for an award of
5 money from the fund as provided by this chapter shall obtain and
6 provide the following information to the office of the governor:

7 (1) a federal criminal history background check for
8 each principal of the entity;

9 (2) a state criminal history background check for each
10 principal of the entity;

11 (3) a credit check for each principal of the entity;

12 (4) a copy of a government-issued form of photo
13 identification for each principal of the entity; and

14 (5) information regarding whether the entity or a
15 principal of the entity has ever been subject to a sanction imposed
16 by the Securities and Exchange Commission for a violation of
17 applicable federal law.

18 (d) For purposes of Subsection (c), "principal" means:

19 (1) an officer of an entity; or

20 (2) a person who has at least a 10 percent ownership
21 interest in an entity.

22 (e) With each proposal to award funding submitted by the
23 governor to the lieutenant governor and speaker of the house of
24 representatives for purposes of obtaining prior approval, the
25 governor shall provide each officer with a copy of the information
26 provided by the appropriate entity under Subsection (c).

27 SECTION 9. Section 490.057, Government Code, is amended to

1 read as follows:

2 Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by
3 Subsection (b), information [~~Information~~] collected by the
4 governor's office, the committee, or the committee's advisory
5 panels concerning the identity, background, finance, marketing
6 plans, trade secrets, or other commercially or academically
7 sensitive information of an individual or entity being considered
8 for, receiving, or having received an award from the fund is
9 confidential unless the individual or entity consents to disclosure
10 of the information.

11 (b) The following information collected by the governor's
12 office, the committee, or the committee's advisory panels under
13 this chapter is public information and may be disclosed under
14 Chapter 552:

15 (1) the name and address of an individual or entity
16 receiving or having received an award from the fund;

17 (2) the amount of funding received by an award
18 recipient;

19 (3) a brief description of the project that is funded
20 under this chapter;

21 (4) if applicable, a brief description of the equity
22 position that the governor, on behalf of the state, has taken in an
23 entity that has received an award from the fund; and

24 (5) any other information designated by the committee
25 with the consent of:

26 (A) the individual or entity receiving or having
27 received an award from the fund, as applicable;

1 (B) the governor;

2 (C) the lieutenant governor; and

3 (D) the speaker of the house of representatives.

4 SECTION 10. Section 490.101, Government Code, is amended by
5 amending Subsection (f) and adding Subsection (f-1) to read as
6 follows:

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

13 (f-1) For purposes of Subsection (f), an award of money
14 appropriated from the fund is considered disapproved by the
15 lieutenant governor or speaker of the house of representatives if
16 that officer does not approve the proposal to award funding before
17 the 91st day after the date of receipt of the proposal from the
18 governor. The lieutenant governor or the speaker of the house of
19 representatives may extend the review deadline applicable to that
20 officer for an additional 14 days by submitting a written notice to
21 that effect to the governor before the expiration of the initial
22 review period.

23 SECTION 11. Subchapter D, Chapter 490, Government Code, is
24 amended by adding Section 490.1521 to read as follows:

25 Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each
26 regional center of innovation and commercialization established
27 under Section 490.152, including the Texas Life Science Center for

1 Innovation and Commercialization, shall keep minutes of each
2 meeting at which applications for funding under this subchapter are
3 evaluated. The minutes must:

4 (1) include the name of each applicant recommended by
5 the regional center of innovation and commercialization to the
6 committee for funding; and

7 (2) indicate the vote of each member of the governing
8 body of the regional center of innovation and commercialization,
9 including any recusal by a member and the member's reason for
10 recusal, with regard to each application reviewed.

11 (b) Each regional center of innovation and
12 commercialization shall retain a copy of the minutes of each
13 meeting to which this section applies for at least three years.

14 SECTION 12. Section 203.021, Labor Code, is amended by
15 adding Subsection (e) to read as follows:

16 (e) Money in the compensation fund may not be transferred to
17 the:

18 (1) Texas Enterprise Fund created under Section
19 481.078, Government Code; or

20 (2) Texas emerging technology fund established under
21 Section 490.101, Government Code.

22 SECTION 13. Section 204.123, Labor Code, is amended to read
23 as follows:

24 Sec. 204.123. TRANSFER TO [~~TEXAS ENTERPRISE FUND,~~] SKILLS
25 DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION
26 FUND. (a) If, on September 1 of a year, the commission determines
27 that the amount in the compensation fund will exceed 100 percent of

1 its floor as computed under Section 204.061 on the next October 1
2 computation date, the commission shall transfer from the holding
3 fund created under Section 204.122:

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

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

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

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

18 ~~[(B)]~~ during any state fiscal biennium beginning
19 on or after September 1, 2007, 100 [+

20 ~~[(i) 75 percent to the Texas Enterprise~~
21 ~~Fund created under Section 481.078, Government Code, except that~~
22 ~~the amount transferred under this paragraph may not exceed the~~
23 ~~amount appropriated by the legislature to the Texas Enterprise Fund~~
24 ~~in that biennium; and~~

25 ~~[(ii) 25]~~ percent to the skills development
26 fund created under Section 303.003, except that the amount
27 transferred under this subdivision ~~[paragraph]~~ may not exceed the

1 amount appropriated by the legislature to the skills development
2 program strategies and activities in that biennium; and

3 (2) any remaining amount in the holding fund after the
4 distribution under Subdivision (1) to the training stabilization
5 fund created under Section 302.101.

6 (b) If, on September 1 of a year, the commission determines
7 that the amount in the compensation fund will be at or below 100
8 percent of its floor as computed under Section 204.061 on the next
9 October 1 computation date, the commission shall transfer to the
10 compensation fund as much of the amount in the holding fund as is
11 necessary to raise the amount in the compensation fund to 100
12 percent of its floor, up to and including the entire amount in the
13 holding fund. The commission shall transfer any remaining balance
14 in the holding fund to the [~~Texas Enterprise Fund, the~~] skills
15 development fund~~[7]~~ and the training stabilization fund in the
16 manner [~~in the percentages~~] prescribed by Subsection (a).

17 SECTION 14. Sections 302.101(b) and (c), Labor Code, are
18 amended to read as follows:

19 (b) Money in the training stabilization fund may be used in
20 a year in which the amounts in the employment and training
21 investment holding fund are insufficient to meet the legislative
22 appropriation for that fiscal year for [~~either the Texas Enterprise~~
23 ~~Fund or~~] the skills development program strategies and activities.

24 (c) Money in the training stabilization fund shall be
25 transferred to the [~~Texas Enterprise Fund and the~~] skills
26 development fund under Subsection (b) not later than September 30.

27 [~~The transfer under Subsection (b) shall consist of transferring 67~~

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

8 SECTION 15. Sections 481.078(e) and 490.101(f), Government
9 Code, as amended by this Act, and Section 490.101(f-1), Government
10 Code, as added by this Act, apply only to a proposal for an award
11 from the Texas Enterprise Fund or Texas emerging technology fund
12 submitted by the governor to the lieutenant governor or speaker of
13 the house of representatives for prior approval on or after the
14 effective date of this Act. A proposal submitted by the governor
15 for prior approval before the effective date of this Act is governed
16 by the law in effect on the date the proposal was submitted for that
17 approval, and the former law is continued in effect for that
18 purpose.

19 SECTION 16. Section 481.078(j), Government Code, as amended
20 by this Act, and Sections 481.078(f-1) and (f-2), Government Code,
21 as added by this Act, apply only to a grant agreement that is
22 entered into on or after the effective date of this Act. A grant
23 agreement that is entered into before the effective date of this Act
24 is governed by the law in effect on the date the agreement was
25 entered into, and the former law is continued in effect for that
26 purpose.

27 SECTION 17. (a) The terms of the members of the Texas

1 Emerging Technology Advisory Committee serving immediately before
2 the effective date of this Act expire September 1, 2011.

3 (b) As soon as practicable after this Act takes effect, the
4 governor, lieutenant governor, and speaker of the house of
5 representatives shall appoint members to the Texas Emerging
6 Technology Advisory Committee established under Subchapter B,
7 Chapter 490, Government Code, in a manner that complies with that
8 subchapter, as amended by this Act.

9 (c) At the first meeting of members of the Texas Emerging
10 Technology Advisory Committee established under Subchapter B,
11 Chapter 490, Government Code, as amended by this Act, occurring on
12 or after September 1, 2011, the members appointed by the governor
13 shall draw lots to determine which six members will serve a term
14 expiring September 1, 2012, and which seven members will serve a
15 term expiring September 1, 2013.

16 SECTION 18. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2457 was passed by the House on April 21, 2011, by the following vote: Yeas 148, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2457 on May 21, 2011, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2457 on May 29, 2011, by the following vote: Yeas 145, Nays 2, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2457

I certify that H.B. No. 2457 was passed by the Senate, with amendments, on May 16, 2011, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2457 on May 29, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor