

House Bill 2457
Senate Amendments
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HOUSE VERSION

SECTION 1. Section 481.078, Government Code, is amended by adding Subsection (h-1) to read as follows:

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

(c) Except as provided by Subsections [Subsection] (d), and (d-1), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d-1) The fund may be used for the Texas homeless housing and services program administered by the Texas Department of Housing and Community Affairs. Subsections (e-1), (f), (f-1), (g), (h), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

(d-2) The fund may be used for the Jobs and Education for Texans Fund established under Chapter 403. Subsections (e-1), (f), (f-1), (g), (h), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

(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

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(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall 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.

No equivalent provision.

before the expiration of the initial review period.
(f-1) A grant agreement must contain a provision:
(1) requiring the creation of a minimum number of jobs in this state; and
(2) specifying the date by which the recipient intends to create those jobs.
(f-2) A grant agreement must contain a provision providing that if the recipient does not meet job creation performance targets as of the dates specified in the agreement, the recipient shall repay the grant in accordance with Subsection (j).

(h-1) At least 14 days before the date the governor intends to amend a grant agreement, the governor shall 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.

(j) Repayment of a grant under Subsection (f)(1)(A) shall [may] be prorated to reflect a partial attainment of job creation performance targets, and may be prorated for a partial attainment of other performance targets. [FA1(1),(2);FA2(1)-(3)]

SECTION __. Section 481.079, Government Code, is amended by adding Subsection (a-1) to read as follows:
(a-1) For grants awarded for a purpose specified by Section 481.078(d-1), the report must include only the amount and purpose of each grant. [FA1(3)]

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SECTION 2. Section 490.001(4), Government Code, is amended to read as follows:

(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 or J, 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.

No equivalent provision.

SECTION 3. Sections 490.005(a) and (b), Government Code, are amended to read as follows:

(a) Not later than January 1 of each year, the governor shall submit 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 and post on the office of the governor's Internet website a report that includes the following information regarding awards made under the fund during each ~~for the~~ preceding ~~three~~ state fiscal year ~~years~~:

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

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

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

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

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

(b) The annual report must also contain:

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

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

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2), which may be developed in consultation with the comptroller's and state auditor's offices;

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

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

No equivalent provision.

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

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

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(1) be based on a methodology that:
(A) may be developed in consultation with the comptroller's and state auditor's offices; and
(B) is consistent with generally accepted accounting principles; and
(2) be included with the annual report required under Section 490.005.

No equivalent provision.

SECTION 5. The heading to Section 490.052, Government Code, is amended to read as follows:
Sec. 490.052. APPOINTMENT TO COMMITTEE [~~BY GOVERNOR~~]; NOMINATIONS.

No equivalent provision.

SECTION 6. Section 490.052, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:
(a) The governor shall appoint to the committee 13 individuals nominated as provided by Subsection (b).
(a-1) The lieutenant governor shall appoint two senators to the committee.
(a-2) The speaker of the house of representatives shall appoint two members of the house of representatives to the committee.

No equivalent provision.

SECTION 7. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0521 to read as follows:
Sec. 490.0521. FINANCIAL STATEMENT REQUIRED.
Each member of the committee shall file with the office of the governor a verified financial statement complying with Sections 572.022 through 572.0252 as is required of a state

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officer by Section 572.021.

No equivalent provision.

SECTION 8. Section 490.054, Government Code, is amended to read as follows:

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

(b) Members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

No equivalent provision.

SECTION 9. Section 490.056, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

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

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

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

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

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

(5) 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.

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

(1) an officer of an entity; or

(2) a person who has at least a 10 percent ownership interest

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in an entity.

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

No equivalent provision.

SECTION 10. Section 490.057, Government Code, is amended to read as follows:

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

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

(1) the name and address of an individual or entity being considered for, receiving, or having received an award from the fund;

(2) the amount of funding:

(A) applied for by an individual or entity being considered for an award; or

(B) received by an award recipient;

(3) a brief description of the project that is the subject of an application for funding or that is funded under this chapter;

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- (4) 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
- (5) any other information designated by the committee with the consent of:
 - (A) the individual or entity being considered for, receiving, or having received an award from the fund, as applicable;
 - (B) the governor;
 - (C) the lieutenant governor; and
 - (D) the speaker of the house of representatives.

No equivalent provision.

SECTION 11. Section 490.101, Government Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The administration of the fund is considered to be a trusted program within the office of the governor. The governor may negotiate on behalf of the state regarding awards 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.

(f-1) For purposes of Subsection (f), 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 funding 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.

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No equivalent provision.

SECTION 12. Section 490.102, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Subject to Subsection (c), money ~~Money~~ appropriated to the fund by the legislature, less amounts necessary to administer the fund under Section 490.055, shall be allocated as follows:

- (1) 50 percent of the money for incentives for collaboration between certain entities as provided by Subchapter D;
- (2) 16.67 percent of the money for research award matching as provided by Subchapter E; and
- (3) 33.33 percent of the money for acquisition of research superiority as provided by Subchapter F.

(c) Each state fiscal biennium, \$2 million deposited to the fund must be allocated for making awards under this chapter to companies that generate \$250,000 or less in annual gross revenue.

No equivalent provision.

SECTION 13. Subchapter D, Chapter 490, Government Code, is amended by adding Section 490.1521 to read as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each regional center of innovation and commercialization established under Section 490.152, including the Texas Life Science Center for Innovation and Commercialization, shall keep minutes of each meeting at which applications for funding under this subchapter are evaluated. The minutes must:

- (1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and
- (2) indicate the vote of each member of the governing body

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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.

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

No equivalent provision.

SECTION 14. Chapter 490, Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. STRATEGIC RESEARCH INITIATIVE PROGRAMS

Sec. 490.451. USE OF MONEY FOR STRATEGIC RESEARCH INITIATIVE PROGRAMS. (a)

Notwithstanding Section 490.102, the governor may allocate money appropriated to the fund by the legislature to provide grants to public or private institutions of higher education in this state for the creation of strategic research initiative programs as provided by this subchapter.

(b) The committee shall recommend proposals eligible for funding under this section to the governor, lieutenant governor, and speaker of the house of representatives.

(c) The amount allocated for funding proposals under this subchapter may not exceed \$2 million in any state fiscal biennium.

Sec. 490.452. PURPOSE. In recommending proposals for funding, the committee shall 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 this state.

Sec. 490.453. PRIORITY FOR FUNDING. In funding proposals under this subchapter, priority shall be given to

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proposals that strengthen this state's competitiveness in obtaining federal grant money for research by:

(1) creating programs designed for and intended to achieve this purpose;

(2) funding travel for professors, researchers, and other employees of public or private institutions of higher education in this state; and

(3) allowing public or private institutions of higher education in this state to engage in innovative efforts to achieve this purpose.

Sec. 490.454. GUARANTEE OF ACTION BY PARTICIPATING ENTITY. (a) An institution of higher education participating in a strategic research initiative program that receives funding under this subchapter shall guarantee by contract with the governor's office that the institution will perform specific actions expected to provide benefits to this state.

(b) If an institution of higher education fails to perform an action guaranteed by contract under Subsection (a) before a time specified by the contract, the institution shall return to the fund the grant money received by the institution under this subchapter.

Sec. 490.455. AUTHORIZED EXPENSES. Money awarded from the fund under this subchapter may 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.

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

(e) Money in the compensation fund may not be transferred

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to the:

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

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

No equivalent provision.

SECTION 16. Section 204.123, Labor Code, is amended to read as follows:

Sec. 204.123. TRANSFER TO ~~[TEXAS ENTERPRISE FUND,]~~ SKILLS DEVELOPMENT FUND, TRAINING STABILIZATION FUND, AND COMPENSATION FUND.

(a) If, on September 1 of a year, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from the holding fund created under Section 204.122:

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

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

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

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

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

~~[(i) 75 percent to the Texas Enterprise Fund created under~~

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~~Section 481.078, Government Code, except that the amount transferred under this paragraph may not exceed the amount appropriated by the legislature to the Texas Enterprise Fund in that biennium; and~~

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

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

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

No equivalent provision.

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

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

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and activities.

(c) Money in the training stabilization fund shall be transferred to the ~~[Texas Enterprise Fund and the]~~ skills development fund under Subsection (b) not later than September 30. ~~[The transfer under Subsection (b) shall consist of transferring 67 percent of the money in the training stabilization fund to the Texas Enterprise Fund and 33 percent of the money in the training stabilization fund to the skills development fund.]~~ The amount transferred from the training stabilization fund may not exceed the amounts appropriated to the ~~[Texas Enterprise Fund and]~~ skills development program strategies and activities in the fiscal year in which the transfer is made.

No equivalent provision.

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

No equivalent provision.

SECTION 19. Subsection (j), Section 481.078, Government Code, as amended by this Act, and Subsections (f-1) and (f-2), Section 481.078, Government Code, as added by this Act, apply only to a grant agreement that is entered into on or after

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the effective date of this Act. A grant agreement that is entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose. [FA2(4)]

No equivalent provision.

SECTION 20. (a) The terms of the members of the Texas Emerging Technology Advisory Committee serving immediately before the effective date of this Act expire September 1, 2011.

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

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

No equivalent provision.

SECTION 21. Section 490.102, Government Code, as amended by this Act, applies only to an award from the Texas emerging technology fund that is made on or after the effective date of this Act. An award from the Texas emerging technology fund made before the effective date of this Act is governed by the law in effect on the date the award was made,

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and the former law is continued in effect for that purpose.

SECTION 2. This Act takes effect September 1, 2011.

SECTION 22. Same as House version.