

By: J. Davis of Harris

H.B. No. 43

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emerging technology fund; redesignating the fund as the Texas Research Technology Fund.

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

SECTION 1. Sections 490.001(1), (2), and (4), Government Code, are amended to read as follows:

(1) "Board" [~~"Committee"~~] means the Texas Research [~~Emerging~~] Technology Fund Board [~~Advisory Committee~~].

(2) "Fund" means the Texas Research Technology Fund [~~emerging technology fund~~].

(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, a grant; or

(D) other forms of contribution or investment as recommended by the board [~~committee~~] and approved by the governor, lieutenant governor, and speaker of the house of representatives.

SECTION 2. Section 490.003, Government Code, is amended to read as follows:

Sec. 490.003. EMERGING TECHNOLOGY INDUSTRIES. (a) An emerging technology industry participant may be [~~is~~] eligible for funding under this chapter if the activity to be funded:

(1) will result in the creation of high-quality new jobs in this state, immediately or over a longer period; ~~or~~

(2) has the potential to result in a medical or scientific breakthrough or a breakthrough in the area of clean energy; or

(3) will result in the commercialization of a scientific breakthrough derived from research conducted at or owned by a research institution.

(b) Emerging technology industries include industries related to:

(1) semiconductors;

(2) information;

(3) computer and software technology;

(4) energy;

(5) manufactured energy systems;

(6) micro-electromechanical systems;

(7) nanotechnology;

(8) biotechnology;

(9) medicine;

(10) life sciences;

(11) petroleum refining and chemical processes;

(12) aerospace;

(13) defense; ~~and~~

(14) water; and

(15) other pursuits, as determined by the governor in consultation with the lieutenant governor and the speaker of the house of representatives.

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

(a) Not later than January 31 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 preceding state fiscal year:

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

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

(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~~

(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; and

(6) a description of the types of securities the governor, on behalf of the state, has taken in companies that have received an award.

(b) The annual report must also contain:

(1) the aggregate total number of jobs, broken down

1 according to the industry sectors described by Section 490.003(b),
2 actually created by all projects [~~each project~~] receiving funding
3 under this chapter;

4 (2) an analysis of the number of jobs, broken down
5 according to the industry sectors described by Section 490.003(b),
6 actually created by all projects [~~each project~~] receiving funding
7 under this chapter; [~~and~~]

8 (3) a brief description regarding:

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

12 (B) the intended outcomes of projects funded
13 under Subchapter D during each preceding state fiscal year; and

14 (C) the actual outcomes of all projects funded
15 under Subchapter D during each preceding state fiscal year,
16 including any financial impact on the state resulting from a
17 liquidity event involving a company whose project was funded under
18 that subchapter;

19 (4) the total number of jobs created by each project
20 receiving funds under this chapter, expressed:

21 (A) in increments of 10 jobs created by the
22 project; or

23 (B) as a number that is within five percent over
24 or under the total number of jobs created by the project; and

25 (5) the average annual salaries in the award
26 recipients' industries.

27 SECTION 4. The heading to Subchapter B, Chapter 490,

Government Code, is amended to read as follows:

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

SECTION 5. Section 490.051, Government Code, is amended to read as follows:

Sec. 490.051. TEXAS RESEARCH TECHNOLOGY FUND BOARD
~~[COMPOSITION OF COMMITTEE]~~. (a) The Texas Research ~~[Emerging]~~
Technology Fund Board is administratively attached to the office of
the governor. The governor's office shall provide staff and other
administrative support for the board.

(b) The board ~~[Advisory Committee]~~ is composed of 17
members.

SECTION 6. The heading to Section 490.052, Government Code,
is amended to read as follows:

Sec. 490.052. APPOINTMENT TO BOARD ~~[COMMITTEE]~~;
NOMINATIONS.

SECTION 7. Sections 490.052(a), (a-1), (a-2), and (b),
Government Code, are amended to read as follows:

(a) The governor shall appoint to the board ~~[committee]~~ 13
individuals nominated as provided by Subsection (b).

(a-1) The lieutenant governor shall appoint two individuals
to the board ~~[committee]~~.

(a-2) The speaker of the house of representatives shall
appoint two individuals to the board ~~[committee]~~.

(b) The following persons may nominate one or more
individuals who are industry leaders in this state or who are
nationally recognized leaders from public or private institutions

of higher education in this state for appointment to the board
[~~committee~~]:

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

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

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

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

(5) other persons considered appropriate by the
governor, lieutenant governor, or speaker of the house of
representatives.

SECTION 8. Section 490.0521(a), Government Code, is amended
to read as follows:

(a) Each member of the board [~~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
officer by Section 572.0252.

SECTION 9. Subchapter B, Chapter 490, Government Code, is
amended by adding Section 490.0522 to read as follows:

Sec. 490.0522. COMPENSATION; EXPENSES. Members of the
board serve without compensation but are entitled to reimbursement
for actual and necessary expenses incurred in attending board
meetings or in performing other board duties approved by the office
of the governor.

SECTION 10. Section 490.053, Government Code, is amended to

1 read as follows:

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

4 SECTION 11. Section 490.054, Government Code, is amended to
5 read as follows:

6 Sec. 490.054. TERMS. (a) Members of the board [~~committee~~]
7 appointed by the governor serve staggered two-year terms, with as
8 near as possible to one-half of the members' terms expiring each
9 year, subject to the pleasure of the governor.

10 (b) Members of the board [~~committee~~] appointed by the
11 lieutenant governor or the speaker of the house of representatives
12 serve two-year terms.

13 (c) Members of the board are not state officers.

14 SECTION 12. Section 490.055, Government Code, is amended to
15 read as follows:

16 Sec. 490.055. STAFF AND FUNDING. Necessary staff and
17 funding for the administration of the fund shall be provided by:

18 (1) the office of the governor; [~~and~~]

19 (2) gifts, grants, and donations for overhead expenses
20 to the office of the governor; and

21 (3) the fund as provided by Section 490.101.

22 SECTION 13. Section 490.056, Government Code, is amended by
23 amending Subsections (a) and (c) and adding Subsection (a-1) to
24 read as follows:

25 (a) The board [~~committee~~] shall make recommendations,
26 through peer review and evaluation processes established by the
27 board [~~committee~~], to the governor, lieutenant governor, and

1 speaker of the house of representatives for the award of money from
2 the fund under Subchapters E and F as provided by this chapter.

3 (a-1) Regional centers of innovation and commercialization
4 formed under Subchapter I shall make recommendations to the board
5 for the award of money from the fund under Subchapter D as provided
6 by this chapter.

7 (c) Each entity recommended by a regional center of
8 innovation and commercialization [~~the committee~~] for an award of
9 money from the fund under Subchapter D as provided by this chapter
10 shall obtain and provide the following information to the office of
11 the governor:

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

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

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

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

19 (5) information regarding whether the entity or a
20 principal of the entity has ever been subject to a sanction imposed
21 by the Securities and Exchange Commission for a violation of
22 applicable federal law.

23 SECTION 14. Section 490.057, Government Code, is amended to
24 read as follows:

25 Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by
26 Subsection (b), information collected or received by the governor's
27 office, the board [~~committee~~], or the board's [~~committee's~~]

1 advisory panels concerning the ~~[identity]~~ background, finances
2 ~~[finance]~~, marketing plans, trade secrets, or other commercially or
3 academically sensitive information of an individual or entity
4 having applied for, being considered for, receiving, or having
5 received an award from the fund is confidential unless the
6 individual or entity consents to disclosure of the information.

7 (b) The following information collected by the governor's
8 office, the board ~~[committee]~~, or the board's ~~[committee's]~~
9 advisory panels under this chapter is public information and may be
10 disclosed under Chapter 552:

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

13 (2) the amount of funding received by an award
14 recipient from the fund;

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

17 (4) if applicable, ~~[a brief description of]~~ the type
18 of equity ~~[position]~~ that the governor, on behalf of the state, has
19 taken in an entity that has received an award from the fund; ~~[and]~~

20 (5) any other information ~~[designated by the~~
21 ~~committee]~~ with the consent of ~~[+]~~

22 ~~[(A)] the individual or entity [receiving or~~
23 ~~having received an award from the fund, as applicable]; and~~

24 (6) any other information otherwise available to the
25 public

26 ~~[(B) the governor,~~

27 ~~[(C) the lieutenant governor, and~~

1 ~~[(D) the speaker of the house of~~
2 ~~representatives]~~.

3 SECTION 15. Subchapter B, Chapter 490, Government Code, is
4 amended by adding Sections 490.058, 490.059, and 490.060 to read as
5 follows:

6 Sec. 490.058. DIVISION OF RESPONSIBILITIES. The board
7 shall develop and implement policies that clearly separate the
8 policy-making responsibilities of the board and the management
9 responsibilities of the staff of the board.

10 Sec. 490.059. APPLICABILITY OF OPEN MEETINGS LAW. The
11 board is subject to Chapter 551.

12 Sec. 490.060. MEETINGS. (a) The board shall hold four
13 regular meetings each year and special meetings at the call of the
14 presiding member.

15 (b) Notwithstanding Chapter 551 or any other law, the board
16 may use a telephone conference call, videoconference, or other
17 similar telecommunication method in accordance with this section to
18 establish a quorum, to hold an open or closed meeting, to vote, or
19 for any other meeting purpose. This subsection applies without
20 regard to the subject matter discussed or considered by the board at
21 the meeting.

22 (c) A meeting held by telephone conference call,
23 videoconference, or other similar telecommunication method:

24 (1) is subject to the notice requirements applicable
25 to other board meetings;

26 (2) may not be held unless notice of the meeting
27 specifies the location where the public may observe the meeting;

1 and

2 (3) must be open and audible to the public at the
3 location specified in the notice under Subdivision (2) during the
4 open portions of the meeting.

5 (d) The board may conduct a closed meeting under Section
6 551.101 to:

7 (1) discuss or consider a matter that contains
8 information that is confidential under Section 490.057; or

9 (2) hear testimony or presentations from an
10 individual, entity, or group that contains information that is
11 confidential under Section 490.057.

12 (e) This section does not prohibit the board from requesting
13 the attendance at a closed meeting of a person who is not a member of
14 the board and who has information regarding an applicant for or
15 recipient of an award from the fund.

16 SECTION 16. The heading to Subchapter C, Chapter 490,
17 Government Code, is amended to read as follows:

18 SUBCHAPTER C. TEXAS RESEARCH [~~EMERGING~~] TECHNOLOGY FUND

19 SECTION 17. The heading to Section 490.101, Government
20 Code, is amended to read as follows:

21 Sec. 490.101. TEXAS RESEARCH [~~EMERGING~~] TECHNOLOGY FUND.

22 SECTION 18. Sections 490.101(a), (c), (d), (f), and (f-1),
23 Government Code, are amended to read as follows:

24 (a) The Texas Research Technology Fund [~~emerging technology~~
25 ~~fund~~] is a dedicated account in the general revenue fund.

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

27 (1) for the purposes described by Section 490.002;

1 ~~[and]~~

2 (2) for necessary staff, administration of the fund
3 including administration by the office of the governor, and
4 services and expenses related to the fund as provided for by Section
5 490.055; and

6 (3) to compensate the fund manager under Section
7 490.157.

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

10 (f) The administration of the fund is considered to be a
11 trustee program within the office of the governor. The governor
12 may negotiate on behalf of the state regarding awards from the fund.
13 The governor may award money appropriated from the fund for awards
14 under Subchapters E and F only with the prior approval of the
15 lieutenant governor and speaker of the house of representatives.
16 The governor may award money appropriated from the fund for awards
17 under Subchapter D or may allocate money from the fund for use as
18 provided by Subchapter I, only with the prior approval of the board.

19 (f-1) For purposes of Subsection (f), an award of money
20 appropriated from the fund for awards under Subchapters E and F is
21 considered disapproved by the lieutenant governor or speaker of the
22 house of representatives if that officer does not approve the
23 proposal to award funding before the 91st day after the date of
24 receipt of the proposal from the governor. The lieutenant governor
25 or the speaker of the house of representatives may extend the review
26 deadline applicable to that officer for an additional 14 days by
27 submitting a written notice to that effect to the governor before

the expiration of the initial review period.

SECTION 19. Section 490.102(a), Government Code, is amended to read as follows:

(a) Money appropriated to or otherwise deposited to the fund under Section 490.101(b), including money retained in the fund from a previous biennium ~~[by the legislature]~~, less amounts necessary to administer the fund under Section 490.055, shall be allocated as follows:

(1) 46 ~~[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; and

(4) four percent of the money for regional centers of innovation and commercialization as provided by Subchapter I.

SECTION 20. Section 490.151, Government Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The following private and nonprofit entities are eligible for incentives under this subchapter:

(1) a private entity that is partially owned by an institution of higher education and is seeking to commercialize technology acquired from the partnering institution;

(2) a private entity that is a qualified spin-out, as determined by the board, of an institution of higher education;

(3) a private entity seeking to commercialize

1 technology acquired from the Lyndon B. Johnson Space Center of the
2 National Aeronautics and Space Administration;

3 (4) a private or nonprofit entity partnering with a
4 research institution through a sponsored research agreement or
5 qualified collaborative agreement; or

6 (5) a private entity that has received an award under
7 this chapter and has received an equity investment commitment from
8 a qualified investor, as determined by the board, for
9 commercialization and growth purposes.

10 (b) The regional centers of innovation and
11 commercialization formed under Subchapter I ~~[committee]~~ shall
12 recommend proposals eligible for funding under this subchapter
13 ~~[section]~~ to the board ~~[governor, lieutenant governor, and speaker~~
14 ~~of the house of representatives]~~.

15 SECTION 21. Section 490.154(a), Government Code, is amended
16 to read as follows:

17 (a) An entity participating in a regional center of
18 innovation and commercialization formed under Subchapter I that
19 receives funding or another incentive under this subchapter shall
20 guarantee by contract with the governor's office that the entity
21 will perform specific actions expected to provide benefits to this
22 state.

23 SECTION 22. Subchapter D, Chapter 490, Government Code, is
24 amended by adding Section 490.157 to read as follows:

25 Sec. 490.157. FUND MANAGER. (a) The office of the governor
26 shall employ or contract with a fund manager to manage equity
27 positions or other investments received by the office of the

1 governor in consideration for an award made. The fund manager shall
2 perform such duties for the purpose of managing equity positions or
3 other investments made under this subchapter.

4 (b) The board may recommend an entity or individual to the
5 office of the governor to serve as the fund manager under Subsection
6 (a). The board may also recommend to the office of the governor:

7 (1) the duties of the fund manager;

8 (2) the appropriate compensation of the fund manager;

9 and

10 (3) the termination of the employment of or contract
11 with the fund manager.

12 SECTION 23. Chapter 490, Government Code, is amended by
13 adding Subchapter I, and a heading is added to that subchapter to
14 read as follows:

15 SUBCHAPTER I. REGIONAL CENTERS OF
16 INNOVATION AND COMMERCIALIZATION

17 SECTION 24. Sections 490.152 and 490.1521, Government Code,
18 are transferred to Subchapter I, Chapter 490, Government Code, as
19 added by this Act, redesignated as Sections 490.401 and 490.402,
20 Government Code, and amended to read as follows:

21 Sec. 490.401 [~~490.152~~]. USE OF MONEY FOR REGIONAL CENTERS
22 OF INNOVATION AND COMMERCIALIZATION. (a) Amounts allocated from
23 the fund for use as provided by this subchapter may be used by an
24 entity described by Section 490.151(a) or an [~~In recommending~~
25 ~~proposals for funding, the committee shall give specific emphasis~~
26 ~~to the formation of regional centers of innovation and~~
27 ~~commercialization.~~

1 ~~[(b) — An]~~ appropriate combination of any entities described
2 by that subsection ~~[Section 490.151(a) may collaborate]~~ to form and
3 maintain a regional center of innovation and commercialization to
4 serve a region of this state.

5 (b) ~~[(c)]~~ A regional center of innovation and
6 commercialization shall provide for a specified region:

7 (1) research and development activities that may
8 include initiatives to prove the feasibility of an idea;

9 (2) commercialization of the results of research and
10 development;

11 (3) incubators for new businesses and expansion of
12 existing businesses related to research and development; and

13 (4) workforce training for businesses resulting from
14 research and development.

15 (c) ~~[(d)]~~ Subject to the availability of suitable partners
16 and resources, the board ~~[committee]~~ shall propose and initiate the
17 establishment of a regional center of innovation and
18 commercialization in:

19 (1) Harris County;

20 (2) Lubbock County;

21 (3) Bexar County;

22 (4) the Dallas-Fort Worth Metroplex;

23 (5) El Paso County;

24 (6) the Middle and Lower Rio Grande Valley; and

25 (7) other suitable locations as determined by the
26 governor in consultation with the lieutenant governor and the
27 speaker of the house of representatives.

1 Sec. 490.402 [~~490.1521~~]. MINUTES OF CERTAIN MEETINGS.

2 (a) Each regional center of innovation and commercialization
3 established under Section 490.401 [~~490.152, including the Texas~~
4 ~~Life Science Center for Innovation and Commercialization,~~] shall
5 keep minutes of each meeting at which applications for funding
6 under Subchapter D [~~this subchapter~~] are evaluated. The minutes
7 must:

8 (1) include the name of each applicant recommended by
9 the regional center of innovation and commercialization to the
10 board [~~committee~~] for funding under Subchapter D; and

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

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

18 SECTION 25. Section 490.201(b), Government Code, is amended
19 to read as follows:

20 (b) The board [~~committee~~] shall recommend proposals
21 eligible for funding under this section to the governor, lieutenant
22 governor, and speaker of the house of representatives.

23 SECTION 26. Section 490.253, Government Code, is amended to
24 read as follows:

25 Sec. 490.253. PROPOSALS FOR FUNDING. (a) The board
26 [~~committee~~] shall review and consider proposals by research
27 institutions for:

1 (1) creating new research superiority;

2 (2) attracting existing research superiority from
3 institutions not located in this state and other research entities;
4 or

5 (3) enhancing existing research superiority by
6 attracting from outside this state additional researchers and
7 resources.

8 (b) The board [~~committee~~] shall recommend proposals
9 eligible for funding under Section 490.251 and proposals solicited
10 and identified under this section to the governor, lieutenant
11 governor, and speaker of the house of representatives.

12 SECTION 27. Section 490.257(b), Government Code, is amended
13 to read as follows:

14 (b) The governor, with the express written prior approval of
15 the lieutenant governor and the speaker of the house of
16 representatives, may terminate funding to an institution if the
17 institution fails to realize a benefit specified in the contract
18 before a time specified in the contract, as determined by a periodic
19 program review conducted by the board [~~committee~~].

20 SECTION 28. Section 50D.013(a), Agriculture Code, is
21 amended to read as follows:

22 (a) The policy council shall:

23 (1) provide a vision for unifying this state's
24 agricultural, energy, and research strengths in a successful launch
25 of a cellulosic biofuel and bioenergy industry;

26 (2) foster development of cellulosic-based and
27 bio-based fuels and build on the Texas Research Technology Fund's

1 ~~[emerging technology fund's]~~ investments in leading-edge energy
2 research and efforts to commercialize the production of bioenergy;

3 (3) pursue the creation of a next-generation biofuels
4 energy research program at a university in this state;

5 (4) work to procure federal and other funding to aid
6 this state in becoming a bioenergy leader;

7 (5) study the feasibility and economic development
8 effect of a blending requirement for biodiesel or cellulosic fuels;

9 (6) pursue the development and use of thermochemical
10 process technologies to produce alternative chemical feedstocks;

11 (7) study the feasibility and economic development of
12 the requirements for pipeline-quality, renewable natural gas; and

13 (8) perform other advisory duties as requested by the
14 commissioner regarding the responsible development of bioenergy
15 resources in this state.

16 SECTION 29. Section 203.021(e), Labor Code, is amended to
17 read as follows:

18 (e) Money in the compensation fund may not be transferred to
19 the:

20 (1) Texas Enterprise Fund created under Section
21 481.078, Government Code; or

22 (2) Texas Research Technology Fund ~~[emerging~~
23 ~~technology fund]~~ established under Section 490.101, Government
24 Code.

25 SECTION 30. Sections 490.056(e) and 490.153(b), Government
26 Code, are repealed.

27 SECTION 31. The terms of the members of the Texas Emerging

Technology Advisory Committee serving immediately before the effective date of this Act expire November 1, 2013.

SECTION 32. (a) As soon as practicable after the effective date of this Act:

(1) the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the Texas Research Technology Fund Board established under Subchapter B, Chapter 490, Government Code, in a manner that complies with that subchapter, as amended by this Act; and

(2) the governor shall appoint the initial presiding member of the board.

(b) At the first meeting of members of the Texas Research Technology Fund Board appointed under Subchapter B, Chapter 490, Government Code, as amended by this Act, occurring on or after November 1, 2013, the members appointed by the governor shall draw lots to determine which seven members will serve terms expiring November 1, 2014, and which six members will serve terms expiring November 1, 2015.

SECTION 33. This Act takes effect November 1, 2013.