

BILL ANALYSIS

C.S.H.B. 2051
By: Villalba
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law allows public institutions of higher education to make investments in certain newly created companies through centers for technology development and transfer established by the institutions, with the purpose of further developing intellectual property. Interested parties assert that this process can be unyielding, in part because newly created companies are difficult to value in their early stages. C.S.H.B. 2051 seeks to improve the process by allowing institutions to accept convertible promissory debt instruments, which they then can convert into shares of common stock of the issuing company or cash of equal value at an agreed-upon price, either in exchange for certain intellectual property rights or as consideration for the provision of monetary, business, scientific, or engineering services, thus delaying the task of assigning value to a newly created company.

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

C.S.H.B. 2051 amends the Education Code, in a provision authorizing an institution of higher education, to the extent authorized by the institution's governing board, to accept equity interests in certain organizations in order to support the activities of centers established by the institution to commercialize technology owned by the institution, to authorize such an institution to accept convertible promissory debt instruments issued by such organizations or to accept a combination of such equity interests and debt instruments.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2051 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 153.006(a), Education Code, is amended to read as follows:

(a) In order to carry out the purposes of this chapter and to support the activities of centers described in this chapter, to the extent authorized by its governing board, an institution of higher education may:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 153.006(a), Education Code, is amended to read as follows:

(a) In order to carry out the purposes of this chapter and to support the activities of centers described in this chapter, to the extent authorized by its governing board, an institution of higher education may:

(1) enter into agreements establishing royalties, fees, and other consideration for technology developed in whole or part by the institution [‡];

(2) accept equity interests, including convertible notes, in organizations that license, manage, or otherwise administer rights to technology belonging to the institution [‡] or under its control in exchange for such rights, in whole or in part;

(3) accept equity interests, including convertible notes, in organizations that license or otherwise have rights in the institution's [‡] technology as consideration for its providing monetary, business, scientific, or engineering services or technical assistance;

(4) use income from the commercialization of technology to fund the activities of the center;

(5) solicit, accept, and administer gifts, grants, and donations;

(6) enter into contracts for legal services with a competent lawyer or law firm to:

(A) prepare, file, pursue, and maintain patent applications in the United States or foreign jurisdictions;

(B) secure copyright protection for computer software;

(C) prepare, file, and pursue trademark and service mark applications;

(D) pursue litigation to prevent or stop infringement of any intellectual property rights of the institution; or

(E) handle any other legal matter related to the operation and activities of the center; and

(7) enter into such other business arrangements as may be appropriate for achieving the purposes of this chapter.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

(1) enter into agreements establishing royalties, fees, and other consideration for technology developed in whole or part by the institution [‡];

(2) accept equity interests in, convertible promissory debt instruments issued by, or a combination of equity interests in and convertible promissory debt instruments issued by organizations that license, manage, or otherwise administer rights to technology belonging to the institution [‡] or under its control in exchange for such rights, in whole or in part;

(3) accept equity interests in, convertible promissory debt instruments issued by, or a combination of equity interests in and convertible promissory debt instruments issued by organizations that license or otherwise have rights in the institution's [‡] technology as consideration for its providing monetary, business, scientific, or engineering services or technical assistance;

(4) use income from the commercialization of technology to fund the activities of the center;

(5) solicit, accept, and administer gifts, grants, and donations;

(6) enter into contracts for legal services with a competent lawyer or law firm to:

(A) prepare, file, pursue, and maintain patent applications in the United States or foreign jurisdictions;

(B) secure copyright protection for computer software;

(C) prepare, file, and pursue trademark and service mark applications;

(D) pursue litigation to prevent or stop infringement of any intellectual property rights of the institution; or

(E) handle any other legal matter related to the operation and activities of the center; and

(7) enter into such other business arrangements as may be appropriate for achieving the purposes of this chapter.

SECTION 2. Same as introduced version.