

By: J. Davis of Harris, Button

H.B. No. 3162

Substitute the following for H.B. No. 3162:

By: Isaac

C.S.H.B. No. 3162

A BILL TO BE ENTITLED

AN ACT

1

2 relating to the Texas emerging technology fund.

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

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

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

8 (4) "Award" means:

9 (A) for purposes of Subchapter D, an investment
10 in the form of equity or a convertible note;

11 (B) for purposes of Subchapter E, an investment
12 in the form of a debt instrument;

13 (C) for purposes of Subchapter F, a grant; or

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

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

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

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

24 (2) has the potential to result in a medical or

1 scientific breakthrough or a breakthrough in the area of clean
2 energy; or

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

6 (b) Emerging technology industries include industries
7 related to:

- 8 (1) semiconductors;
- 9 (2) information;
- 10 (3) computer and software technology;
- 11 (4) energy;
- 12 (5) manufactured energy systems;
- 13 (6) micro-electromechanical systems;
- 14 (7) nanotechnology;
- 15 (8) biotechnology;
- 16 (9) medicine;
- 17 (10) life sciences;
- 18 (11) petroleum refining and chemical processes;
- 19 (12) aerospace;
- 20 (13) defense; ~~and~~
- 21 (14) water; and
- 22 (15) other pursuits, as determined by the governor in

23 consultation with the lieutenant governor and the speaker of the
24 house of representatives.

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

27 (a) Not later than January 31 of each year, the governor

1 shall submit to the lieutenant governor, the speaker of the house of
2 representatives, and the standing committee of each house of the
3 legislature with primary jurisdiction over economic development
4 matters and post on the office of the governor's Internet website a
5 report that includes the following information regarding awards
6 made under the fund during each preceding state fiscal year:

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

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

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

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

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

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

23 (b) The annual report must also contain:

24 (1) the aggregate total number of jobs, broken down
25 according to the industry sectors described by Section 490.003(b),
26 actually created by all projects ~~[each project]~~ receiving funding
27 under this chapter;

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

5 (3) a brief description regarding:

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

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

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

16 (4) the total number of jobs created by each project
17 receiving funds under this chapter, expressed;

18 (A) in increments of 10 jobs created by the
19 project; or

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

22 (5) the average annual salaries in the award
23 recipients' industries.

24 SECTION 4. The heading to Subchapter B, Chapter 490,
25 Government Code, is amended to read as follows:

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

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

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

8 (b) The board [~~Advisory Committee~~] is composed of 15 [~~17~~]
9 members.

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

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

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

16 (a) The governor shall appoint to the board five [~~committee~~
17 ~~13~~] individuals nominated as provided by Subsection (b).

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

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

22 (b) The following persons may nominate one or more
23 individuals who are industry leaders in this state or who are
24 nationally recognized leaders from public or private institutions
25 of higher education in this state for appointment to the board
26 [~~committee~~]:

27 (1) a president of a public or private institution of

1 higher education in this state;

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

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

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

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

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

13 (a) Each member of the board [~~committee~~] shall file with the
14 office of the governor a verified financial statement complying
15 with Sections 572.022 through 572.0252 as is required of a state
16 officer by Section 572.0252.

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

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

24 SECTION 10. Section 490.053, Government Code, is amended to
25 read as follows:

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

1 SECTION 11. Section 490.054(a), Government Code, is amended
2 to read as follows:

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

7 SECTION 12. Section 490.055, Government Code, is amended to
8 read as follows:

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

- 11 (1) the office of the governor; [~~and~~]
12 (2) gifts, grants, and donations for overhead expenses
13 to the office of the governor; and
14 (3) the fund as provided by Section 490.101.

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

18 (a) The board [~~committee~~] shall make recommendations,
19 through peer review and evaluation processes established by the
20 board [~~committee~~], to the governor, lieutenant governor, and
21 speaker of the house of representatives for the award of money from
22 the fund under Subchapters E and F as provided by this chapter.

23 (a-1) Regional centers of innovation and commercialization
24 formed under Subchapter I shall make recommendations to the
25 governor and the board for the award of money from the fund under
26 Subchapter D as provided by this chapter.

27 (c) Each entity recommended by a regional center of

1 innovation and commercialization [~~the committee~~] for an award of
2 money from the fund under Subchapter D as provided by this chapter
3 shall obtain and provide the following information to the office of
4 the governor:

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

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

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

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

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

16 SECTION 14. Section 490.057, Government Code, is amended to
17 read as follows:

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

27 (b) The following information collected by the governor's

1 office, the board [~~committee~~], or the board's [~~committee's~~]
2 advisory panels under this chapter is public information and may be
3 disclosed under Chapter 552:

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

6 (2) the amount of funding received by an award
7 recipient from the fund;

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

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

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

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

17 (6) any other information otherwise available to the
18 public

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

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

21 [~~(D) the speaker of the house of~~
22 ~~representatives~~].

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

26 Sec. 490.058. DIVISION OF RESPONSIBILITIES. The board
27 shall develop and implement policies that clearly separate the

1 policy-making responsibilities of the board and the management
2 responsibilities of the staff of the board.

3 Sec. 490.059. APPLICABILITY OF OPEN MEETINGS LAW. The
4 board is subject to Chapter 551.

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

8 (b) Notwithstanding Chapter 551 or any other law, the board
9 may use a telephone conference call, videoconference, or other
10 similar telecommunication method in accordance with this section to
11 establish a quorum, to hold an open or closed meeting, to vote, or
12 for any other meeting purpose. This subsection applies without
13 regard to the subject matter discussed or considered by the board at
14 the meeting.

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

17 (1) is subject to the notice requirements applicable
18 to other board meetings;

19 (2) may not be held unless notice of the meeting
20 specifies the location where the public may observe the meeting;
21 and

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

25 (d) The board may conduct a closed meeting under Section
26 551.101 to:

27 (1) discuss or consider a matter that contains

1 information that is confidential under Section 490.057; or
2 (2) hear testimony or presentations from an
3 individual, entity, or group that contains information that is
4 confidential under Section 490.057.

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

9 SECTION 16. Sections 490.101(c), (d), (f), and (f-1),
10 Government Code, are amended to read as follows:

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

12 (1) for the purposes described by Section 490.002;
13 [~~and~~]

14 (2) for necessary staff, administration of the fund
15 including administration by the office of the governor, and
16 services and expenses related to the fund as provided for by Section
17 490.055; and

18 (3) to compensate the fund manager under Section
19 490.157.

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

22 (f) The administration of the fund is considered to be a
23 trustee program within the office of the governor. The governor
24 may negotiate on behalf of the state regarding awards from the fund.
25 The governor may award money appropriated from the fund for awards
26 under Subchapters E and F only with the prior approval of the
27 lieutenant governor and speaker of the house of representatives.

1 The governor may award money appropriated from the fund for awards
2 under Subchapter D only with the prior approval of the board.

3 (f-1) For purposes of Subsection (f), an award of money
4 appropriated from the fund for awards under Subchapters E and F is
5 considered disapproved by the lieutenant governor or speaker of the
6 house of representatives if that officer does not approve the
7 proposal to award funding before the 91st day after the date of
8 receipt of the proposal from the governor. The lieutenant governor
9 or the speaker of the house of representatives may extend the review
10 deadline applicable to that officer for an additional 14 days by
11 submitting a written notice to that effect to the governor before
12 the expiration of the initial review period.

13 SECTION 17. Section 490.102(a), Government Code, is amended
14 to read as follows:

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

20 (1) 46 [~~50~~] percent of the money for incentives for
21 collaboration between certain entities as provided by Subchapter D;

22 (2) 16.67 percent of the money for research award
23 matching as provided by Subchapter E; [~~and~~]

24 (3) 33.33 percent of the money for acquisition of
25 research superiority as provided by Subchapter F; and

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

1 SECTION 18. Section 490.151, Government Code, is amended by
2 adding Subsection (a-1) and amending Subsection (b) to read as
3 follows:

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

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

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

11 (3) a private entity seeking to commercialize
12 technology acquired from the Lyndon B. Johnson Space Center of the
13 National Aeronautics and Space Administration;

14 (4) a private or nonprofit entity partnering with a
15 research institution through a sponsored research agreement or
16 qualified collaborative agreement; or

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

21 (b) The regional centers of innovation and
22 commercialization formed under Subchapter I [~~committee~~] shall
23 recommend proposals eligible for funding under this subchapter
24 [~~section~~] to the governor and the board [~~, lieutenant governor, and~~
25 ~~speaker of the house of representatives~~].

26 SECTION 19. Section 490.154(a), Government Code, is amended
27 to read as follows:

1 (a) An entity participating in a regional center of
2 innovation and commercialization formed under Subchapter I that
3 receives funding or another incentive under this subchapter shall
4 guarantee by contract with the governor's office that the entity
5 will perform specific actions expected to provide benefits to this
6 state.

7 SECTION 20. Subchapter D, Chapter 490, Government Code, is
8 amended by adding Section 490.157 to read as follows:

9 Sec. 490.157. FUND MANAGER. The office shall employ or
10 contract with a fund manager, designated by the board, to manage
11 equity positions or other investments received by the office of the
12 governor in consideration for an award made. The fund manager shall
13 perform such duties, as determined by the board, for the purpose of
14 managing equity positions or other investments made under this
15 subchapter.

16 SECTION 21. Chapter 490, Government Code, is amended by
17 adding Subchapter I, and a heading is added to that subchapter to
18 read as follows:

19 SUBCHAPTER I. REGIONAL CENTERS OF
20 INNOVATION AND COMMERCIALIZATION

21 SECTION 22. Sections 490.152 and 490.1521, Government Code,
22 are transferred to Subchapter I, Chapter 490, Government Code, as
23 added by this Act, redesignated as Sections 490.401 and 490.402,
24 Government Code, and amended to read as follows:

25 Sec. 490.401 [~~490.152~~]. USE OF MONEY FOR REGIONAL CENTERS
26 OF INNOVATION AND COMMERCIALIZATION. (a) Amounts allocated from
27 the fund for use as provided by this subchapter may be used by an

1 entity described by Section 490.151(a) or an [~~In recommending~~
2 ~~proposals for funding, the committee shall give specific emphasis~~
3 ~~to the formation of regional centers of innovation and~~
4 ~~commercialization.~~

5 [~~(b) An~~] appropriate combination of any entities described
6 by that subsection [~~Section 490.151(a) may collaborate~~] to form and
7 maintain a regional center of innovation and commercialization to
8 serve a region of this state.

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

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

13 (2) commercialization of the results of research and
14 development;

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

17 (4) workforce training for businesses resulting from
18 research and development.

19 (c) [~~(d)~~] Subject to the availability of suitable partners
20 and resources, the board [~~committee~~] shall propose and initiate the
21 establishment of a regional center of innovation and
22 commercialization in:

23 (1) Harris County;

24 (2) Lubbock County;

25 (3) Bexar County;

26 (4) the Dallas-Fort Worth Metroplex;

27 (5) El Paso County;

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

2 (7) other suitable locations as determined by the
3 governor in consultation with the lieutenant governor and the
4 speaker of the house of representatives.

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

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

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

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

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

22 SECTION 23. Section 490.201(b), Government Code, is amended
23 to read as follows:

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

27 SECTION 24. Section 490.253, Government Code, is amended to

1 read as follows:

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

5 (1) creating new research superiority;

6 (2) attracting existing research superiority from
7 institutions not located in this state and other research entities;
8 or

9 (3) enhancing existing research superiority by
10 attracting from outside this state additional researchers and
11 resources.

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

16 SECTION 25. Section 490.257(b), Government Code, is amended
17 to read as follows:

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

24 SECTION 26. Sections 490.054(b), 490.056(e), and
25 490.153(b), Government Code, are repealed.

26 SECTION 27. The terms of the members of the Texas Emerging
27 Technology Advisory Committee serving immediately before the

1 effective date of this Act expire September 1, 2013.

2 SECTION 28. (a) As soon as practicable after the effective
3 date of this Act:

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

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

11 (b) At the first meeting of members of the Texas Emerging
12 Technology Fund Board appointed under Subchapter B, Chapter 490,
13 Government Code, as amended by this Act, occurring on or after
14 September 1, 2013:

15 (1) the members appointed by the governor shall draw
16 lots to determine which three members will serve terms expiring
17 September 1, 2014, and which two members will serve terms expiring
18 September 1, 2015;

19 (2) the members appointed by the lieutenant governor
20 shall draw lots to determine which two members will serve terms
21 expiring September 1, 2014, and which three members will serve
22 terms expiring September 1, 2015; and

23 (3) the members appointed by the speaker of the house
24 of representatives shall draw lots to determine which two members
25 will serve terms expiring September 1, 2014, and which three
26 members will serve terms expiring September 1, 2015.

27 SECTION 29. This Act takes effect September 1, 2013.