

By: Button, Johnson

H.B. No. 27

Substitute the following for H.B. No. 27:

By: Johnson

C.S.H.B. No. 27

A BILL TO BE ENTITLED

AN ACT

1
2 relating to state economic development measures, including
3 administration of the Texas Enterprise Fund, the abolishment of the
4 Texas emerging technology fund, and the disposition of balances
5 from the Texas emerging technology fund.

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

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

10 (c) Except as provided by Subsections (d) and (d-1), the
11 fund may be used only for:

12 (1) economic development, infrastructure development,
13 community development, job training programs, and business
14 incentives; and

15 (2) projects for commercialization of property
16 derived from research developed at or through public or private
17 institutions of higher education as provided by Section 481.081.

18 (d-1) The fund may be used for the Texas homeless housing
19 and services program administered by the Texas Department of
20 Housing and Community Affairs under Section 2306.2585. The
21 governor may transfer appropriations from the fund to the Texas
22 Department of Housing and Community Affairs to fund the Texas
23 homeless housing and services program. Subsections (e-2) [~~(e-1)~~],
24 (f), (f-1), (f-2), (g), (h), (h-1), (i), and (j) and Section 481.080

1 do not apply to a grant awarded for a purpose specified by this
2 subsection.

3 (e) The administration of the fund is considered to be a
4 trustee program within the office of the governor. The governor
5 may negotiate on behalf of the state regarding awarding, by grant,
6 money appropriated from the fund.

7 (e-1) The governor may award money appropriated from the
8 fund only with the prior approval of the lieutenant governor and
9 speaker of the house of representatives. For purposes of this
10 subsection, an award of money appropriated from the fund is
11 considered disapproved by the lieutenant governor or speaker of the
12 house of representatives if that officer does not approve the
13 proposal to award the grant before the 31st [~~91st~~] day after the
14 date of receipt of the proposal from the governor. The lieutenant
15 governor or the speaker of the house of representatives may extend
16 the review deadline applicable to that officer for an additional 14
17 days by submitting a written notice to that effect to the governor
18 before the expiration of the initial review period.

19 (e-2) [~~(e-1)~~] To be eligible to receive a grant under this
20 section, the entity must:

21 (1) be in good standing under the laws of the state in
22 which the entity was formed or organized, as evidenced by a
23 certificate issued by the secretary of state or the state official
24 having custody of the records pertaining to entities or other
25 organizations formed under the laws of that state; and

26 (2) owe no delinquent taxes to a taxing unit of this
27 state.

1 (f) Before awarding a grant from the fund [~~under this~~
2 ~~section~~], the governor shall enter into a written agreement with
3 the entity to be awarded the grant money. If the entity is awarded a
4 grant for a purpose described by Subsection (c)(1), the agreement
5 must specify [~~specifying~~] that:

6 (1) if the governor finds that the grant recipient has
7 not met each of the performance targets specified in the agreement
8 as of a date certain provided in the agreement:

9 (A) the recipient shall repay the grant and any
10 related interest to the state at the agreed rate and on the agreed
11 terms;

12 (B) the governor will not distribute to the
13 recipient any grant money that remains to be awarded under the
14 agreement; and

15 (C) the governor may assess specified penalties
16 for noncompliance against the recipient;

17 (2) if all or any portion of the amount of the grant is
18 used to build a capital improvement, the state may:

19 (A) retain a lien or other interest in the
20 capital improvement in proportion to the percentage of the grant
21 amount used to pay for the capital improvement; and

22 (B) require the recipient of the grant, if the
23 capital improvement is sold, to:

24 (i) repay to the state the grant money used
25 to pay for the capital improvement, with interest at the rate and
26 according to the other terms provided by the agreement; and

27 (ii) share with the state a proportionate

1 amount of any profit realized from the sale; and

2 (3) if, as of a date certain provided in the agreement,
3 the grant recipient has not used grant money awarded under this
4 section for the purposes for which the grant was intended, the
5 recipient shall repay that amount and any related interest to the
6 state at the agreed rate and on the agreed terms.

7 (k) To encourage the development and location of small
8 businesses in this state, the governor shall make [~~consider making~~]
9 grants from the fund:

10 (1) to recipients that are small businesses in this
11 state that commit to using the grants to create additional jobs;

12 (2) to recipients that are small businesses from
13 outside the state that commit to relocate to this state; or

14 (3) for individual projects that create 100 or fewer
15 additional jobs.

16 (m) The office of the governor shall adopt rules for the
17 operation of the trustee program established under this section.

18 The rules must include:

19 (1) forms and procedures for applications for and the
20 award of grants;

21 (2) procedures for evaluating grant applications;

22 (3) provisions governing the grant agreement process;

23 (4) methods and procedures for monitoring grant

24 recipients and projects or activities for which a grant is awarded

25 from the fund to determine whether and to what extent the grant

26 recipients comply with job creation performance targets, capital

27 investment commitments, or other specified performance targets in

1 the grant agreement, including requirements that grant recipients
2 provide to the office periodic compliance updates;

3 (5) document retention requirements for grant
4 recipients that are consistent with applicable state law; and

5 (6) conflict of interest provisions to ensure that
6 persons involved in the operation of the program, including persons
7 involved in evaluating applications for or awarding grants from the
8 fund or in monitoring grant recipients or determining compliance
9 with the terms of grant agreements, do not have a substantial
10 interest in any grant recipient or grant awarded from the fund.

11 SECTION 2. Section 481.079(a-1), Government Code, is
12 amended to read as follows:

13 (a-1) For grants awarded for a purpose specified by Section
14 481.078(d-1) or 481.081, the report must include only the amount
15 and purpose of each grant.

16 SECTION 3. Subchapter E, Chapter 481, Government Code, is
17 amended by adding Section 481.081 to read as follows:

18 Sec. 481.081. TEXAS ENTERPRISE FUND: GRANT FOR UNIVERSITY
19 RESEARCH DEVELOPMENT WITH PRIVATE SPONSORSHIP. (a) In this
20 section:

21 (1) "Fund" means the Texas Enterprise Fund under
22 Section 481.078.

23 (2) "Public or private institution of higher
24 education" means an institution of higher education or a private or
25 independent institution of higher education as those terms are
26 defined by Section 61.003, Education Code.

27 (b) The governor shall provide grants to public or private

1 institutions of higher education from the fund to supplement other
2 funding for projects involving the commercialization of
3 intellectual property or other property derived from research
4 developed at or through a public or private institution of higher
5 education. To be eligible for a grant under this section, a project
6 must be supported by funding provided by one or more private
7 entities participating in the project, in addition to any funding
8 provided by the public or private institution of higher education.

9 (c) The amount of a grant awarded under this section may not
10 exceed 50 percent of the total amount of investment in the project
11 provided by the applicable public or private institution of higher
12 education and the participating private entity or entities.

13 SECTION 4. Subchapter G, Chapter 404, Government Code, is
14 amended by adding Section 404.1031 to read as follows:

15 Sec. 404.1031. MANAGEMENT OF INVESTMENT PORTFOLIO FROM
16 FORMER TEXAS EMERGING TECHNOLOGY FUND. (a) In this section,
17 "state's emerging technology investment portfolio" means:

18 (1) the equity positions in the form of stock or other
19 security the governor took, on behalf of the state, in companies
20 that received awards under the former Texas emerging technology
21 fund; and

22 (2) any other investments made by the governor, on
23 behalf of the state, in connection with an award made under the
24 former Texas emerging technology fund.

25 (b) The trust company shall manage the state's emerging
26 technology investment portfolio in a manner that a prudent investor
27 would employ exercising reasonable care, skill, and caution, taking

1 into consideration the investment of all assets of the portfolio.
2 The trust company may recover its reasonable and necessary costs
3 incurred in the management of the portfolio from the earnings on the
4 investments in the portfolio.

5 (c) Any proceeds or other earnings from the sale of stock or
6 other investments in the state's emerging technology investment
7 portfolio, less the amount permitted to be retained for payment of
8 its costs for managing the portfolio as provided by Subsection (b),
9 shall be remitted by the trust company to the comptroller for
10 deposit in the general revenue fund.

11 SECTION 5. Effective September 1, 2016, Subchapter G,
12 Chapter 404, Government Code, is amended by adding Section 404.1032
13 to read as follows:

14 Sec. 404.1032. VALUATION OF INVESTMENTS FROM FORMER FUND;
15 ANNUAL REPORT. (a) To the maximum extent practicable, the trust
16 company annually shall perform a valuation of the equity positions
17 the governor took, on behalf of the state, in companies that
18 received awards under the former Texas emerging technology fund and
19 of other investments made by the governor, on behalf of the state,
20 in connection with an award under that fund. The valuation must be
21 based on a methodology that is consistent with generally accepted
22 accounting principles.

23 (b) Not later than January 31 of each year, the trust
24 company shall submit to the lieutenant governor, the speaker of the
25 house of representatives, and the standing committee of each house
26 of the legislature with primary jurisdiction over economic
27 development matters and post on the trust company's Internet

1 website a report of any valuation performed under this section
2 during the preceding state fiscal year.

3 SECTION 6. The heading to Chapter 490, Government Code, is
4 amended to read as follows:

5 CHAPTER 490. PROVISIONS RELATING TO FORMER TEXAS [~~FUNDING FOR~~]
6 EMERGING TECHNOLOGY FUND

7 SECTION 7. Sections 490.001(2) and (4), Government Code,
8 are amended to read as follows:

9 (2) "Fund" means the former Texas emerging technology
10 fund.

11 (4) "Award" means:

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

14 (B) for purposes of former Subchapter E, an
15 investment in the form of a debt instrument;

16 (C) for purposes of former Subchapter F, a grant;
17 or

18 (D) other forms of contribution or investment as
19 recommended by the former Texas Emerging Technology Advisory
20 Committee [~~committee~~] and approved by the governor, lieutenant
21 governor, and speaker of the house of representatives before
22 amendment of this chapter by the 84th Legislature, Regular Session,
23 2015.

24 SECTION 8. The heading to Section 490.005, Government Code,
25 is amended to read as follows:

26 Sec. 490.005. REPORT ON AWARDS FROM FORMER FUND [~~ANNUAL~~
27 ~~REPORT~~].

1 SECTION 9. Section 490.005, Government Code, is amended by
2 amending Subsections (a) and (b) and adding Subsection (d) to read
3 as follows:

4 (a) Not later than January 31, 2016 [~~of each year~~], the
5 governor shall submit to the lieutenant governor, the speaker of
6 the house of representatives, and the standing committee of each
7 house of the legislature with primary jurisdiction over economic
8 development matters and post on the office of the governor's
9 Internet website a report that includes for each preceding state
10 fiscal year the following information regarding awards made under
11 the fund [~~during each preceding state fiscal year~~]:

- 12 (1) the total number and amount of awards made;
- 13 (2) the number and amount of awards made under former
14 Subchapters D, E, and F;
- 15 (3) the aggregate total of private sector investment,
16 federal government funding, and contributions from other sources
17 obtained in connection with awards made under each of the
18 subchapters listed in Subdivision (2);
- 19 (4) the name of each award recipient and the amount of
20 the award made to the recipient; and
- 21 (5) a brief description of the equity position that
22 the governor, on behalf of the state, has taken [~~may take~~] in
23 companies that received [~~receiving~~] awards and the names of the
24 companies in which the state has taken an equity position.

25 (b) The [~~annual~~] report must also contain:

- 26 (1) the total number of jobs actually created by each
27 project that received an award from the fund [~~receiving funding~~]

1 ~~under this chapter];~~

2 (2) an analysis of the number of jobs actually created
3 by each project that received an award from the fund [~~receiving~~
4 ~~funding 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 former Subchapter D [~~during each preceding state fiscal~~
11 ~~year~~]; and

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

17 (d) This section expires September 1, 2017.

18 SECTION 10. Effective September 1, 2016, Subchapter A,
19 Chapter 490, Government Code, is amended by adding Section 490.0051
20 to read as follows:

21 Sec. 490.0051. ANNUAL REPORT ON PROJECTS FUNDED; JOB
22 CREATION AND OUTCOMES. (a) Not later than January 31 of each year,
23 the governor shall submit to the lieutenant governor, the speaker
24 of the house of representatives, and the standing committee of each
25 house of the legislature with primary jurisdiction over economic
26 development matters and post on the office of the governor's
27 Internet website a report that contains for each preceding state

1 fiscal year the following information regarding awards made under
2 the fund:

3 (1) the total number of jobs actually created by each
4 project that received an award from the fund;

5 (2) an analysis of the number of jobs actually created
6 by each project that received an award from the fund; and

7 (3) a brief description regarding:

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

11 (B) the intended outcomes of all projects funded
12 under former Subchapter D; and

13 (C) the actual outcomes of all projects funded
14 under former Subchapter D, including any financial impact on the
15 state resulting from a liquidity event involving a company whose
16 project was funded under that subchapter.

17 (b) The governor shall exclude from the report information
18 that is made confidential by law.

19 (c) This section expires September 1, 2030.

20 SECTION 11. Section 490.006, Government Code, is amended to
21 read as follows:

22 Sec. 490.006. VALUATION OF INVESTMENTS; [~~INCLUSION IN~~]
23 ANNUAL REPORT. (a) To the maximum extent practicable, the office
24 of the governor shall annually perform a valuation of the equity
25 positions taken by the governor, on behalf of the state, in
26 companies that received [~~receiving~~] awards under the fund and of
27 other investments made by the governor, on behalf of the state, in

1 connection with an award under the fund. The valuation must ~~+~~

2 ~~[(1)]~~ be based on a methodology that:

3 (1) ~~[(A)]~~ may be developed in consultation with the
4 comptroller's office; and

5 (2) ~~[(B)]~~ is consistent with generally accepted
6 accounting principles ~~+, and~~

7 ~~[(2) be included with the annual report required under~~
8 ~~Section 490.005].~~

9 (b) Except as provided by Subsection (c), not later than
10 January 31, 2016, the governor shall submit to the lieutenant
11 governor, the speaker of the house of representatives, and the
12 standing committee of each house of the legislature with primary
13 jurisdiction over economic development matters and post on the
14 office of the governor's Internet website a report of any valuation
15 performed under this section during the preceding state fiscal
16 year.

17 (c) A valuation performed for the state fiscal year ending
18 August 31, 2015, must be included with the report required under
19 Section 490.005.

20 (d) This section expires September 1, 2016.

21 SECTION 12. The heading to Subchapter B, Chapter 490,
22 Government Code, is amended to read as follows:

23 SUBCHAPTER B. MISCELLANEOUS PROVISIONS [~~TEXAS EMERGING TECHNOLOGY~~
24 ~~ADVISORY COMMITTEE~~]

25 SECTION 13. Section 490.057, Government Code, is amended to
26 read as follows:

27 Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by

1 Subsection (b), information collected by the governor's office, the
2 former Texas Emerging Technology Advisory Committee [~~committee~~],
3 or the committee's advisory panels concerning the identity,
4 background, finance, marketing plans, trade secrets, or other
5 commercially or academically sensitive information of an
6 individual or entity that was [~~being~~] considered for or [~~r~~
7 ~~receiving, or having~~] received an award from the fund is
8 confidential unless the individual or entity consents to disclosure
9 of the information.

10 (b) The following information collected by the governor's
11 office, the former Texas Emerging Technology Advisory Committee
12 [~~committee~~], or the committee's advisory panels under this chapter
13 is public information and may be disclosed under Chapter 552:

14 (1) the name and address of an individual or entity
15 that [~~receiving or having~~] received an award from the fund;

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

18 (3) a brief description of the project [~~that is~~]
19 funded under this chapter;

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

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

25 (A) the individual or entity that [~~receiving or~~
26 ~~having~~] received an award from the fund[~~, as applicable~~];

27 (B) the governor;

1 (C) the lieutenant governor; and

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

3 SECTION 14. Section 50D.013(a), Agriculture Code, is
4 amended to read as follows:

5 (a) The policy council shall:

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

9 (2) foster development of cellulosic-based and
10 bio-based fuels and build on the former Texas emerging technology
11 fund's investments in leading-edge energy research and efforts to
12 commercialize the production of bioenergy;

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

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

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

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

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

23 (8) perform other advisory duties as requested by the
24 commissioner regarding the responsible development of bioenergy
25 resources in this state.

26 SECTION 15. Section 203.021(e), Labor Code, is amended to
27 read as follows:

1 (e) Money in the compensation fund may not be transferred to
2 the[+]

3 [~~(1)~~] Texas Enterprise Fund created under Section
4 481.078, Government Code[+~~or~~

5 [~~(2)~~ Texas emerging technology fund established under
6 Section 490.101, Government Code].

7 SECTION 16. The following laws are repealed:

8 (1) Sections 490.001(1), (3), and (5), Government
9 Code;

10 (2) Sections 490.002 and 490.003, Government Code;

11 (3) Sections 490.051, 490.052, 490.0521, 490.053,
12 490.054, 490.055, and 490.056, Government Code; and

13 (4) Subchapters C, D, E, F, and G, Chapter 490,
14 Government Code.

15 SECTION 17. (a) On September 1, 2015, the Texas emerging
16 technology fund is abolished. Any unencumbered balance of the fund
17 may be appropriated only to any of the following:

18 (1) the Texas Research Incentive Program (TRIP) under
19 Subchapter F, Chapter 62, Education Code;

20 (2) the Texas research university fund, subject to
21 Subsection (b) of this section; and

22 (3) the comptroller for the purposes of expenses
23 incurred in managing the state's portfolio of equity positions and
24 other investments in connection with awards from the former Texas
25 emerging technology fund in accordance with Section 404.1031,
26 Government Code, as added by this Act.

27 (b) The authority of the Texas research university fund to

1 receive the appropriation described by Subsection (a) of this
2 section is contingent on passage and enactment of H.B. 1000, or
3 similar legislation relating to state support for general academic
4 teaching institutions in this state by the 84th Legislature,
5 Regular Session, 2015, that renames the existing Texas competitive
6 knowledge fund and changes the purposes for which the fund can be
7 used.

8 (c) The abolishment by this Act of the Texas emerging
9 technology fund and the repeal of provisions of Chapter 490,
10 Government Code, relating to that fund do not affect the validity of
11 an agreement between the governor and an award recipient or a person
12 to be awarded money that is entered into under Chapter 490 before
13 September 1, 2015.

14 (d) Money that was deposited in the Texas emerging
15 technology fund as a gift, grant, or donation under Chapter 490,
16 Government Code, and that is encumbered by the specific terms of the
17 gift, grant, or donation may be spent only in accordance with the
18 terms of the gift, grant, or donation.

19 (e) Money from the Texas emerging technology fund that is
20 encumbered because the money is awarded or otherwise obligated by
21 agreement before September 1, 2015, but under the terms of the award
22 or agreement will not be distributed until a later date shall be
23 distributed in accordance with the terms of the award or agreement.
24 If the governor determines that the money will not be distributed in
25 accordance with the terms of the award or agreement, the governor
26 shall certify that fact to the comptroller. On that certification,
27 the comptroller shall make that money available in the general

1 revenue fund to be used in accordance with legislative
2 appropriation.

3 (f) On or after the effective date of this Act, subject to
4 any amounts used to recover costs under Section 404.1031(b),
5 Government Code, as added by this Act, the following payments or
6 other amounts shall be sent to the comptroller for deposit to the
7 general revenue fund to be used in accordance with legislative
8 appropriation:

9 (1) any royalties, revenues, and other financial
10 benefits realized from a project undertaken with money from the
11 Texas emerging technology fund, as provided by a contract described
12 by former Section 490.103, Government Code;

13 (2) any interest or proceeds received as a result of a
14 transaction authorized by former Section 490.101(h), Government
15 Code;

16 (3) any money returned or repaid to the state by an
17 award recipient pursuant to an agreement entered into under former
18 Section 490.101, Government Code;

19 (4) any money derived from an interest the state
20 retained in a capital improvement pursuant to an agreement entered
21 into under former Section 490.101, Government Code; and

22 (5) any fund money returned by an entity that fails to
23 perform an action guaranteed by a contract entered into under
24 former Section 490.154 or 490.203, Government Code.

25 SECTION 18. A regional center of innovation and
26 commercialization established under Section 490.152, Government
27 Code, is abolished on the effective date of this Act. Each center

1 shall transfer to the office of the governor a copy of any meeting
2 minutes required to be retained under Section 490.1521, Government
3 Code, as that section existed immediately before that section's
4 repeal by this Act, and the office shall retain the minutes for the
5 period prescribed by that section.

6 SECTION 19. On September 1, 2015, the Texas Emerging
7 Technology Advisory Committee established under Subchapter B,
8 Chapter 490, Government Code, is abolished.

9 SECTION 20. Except as provided by this Act, on September 1,
10 2015, the following powers, duties, functions, and activities
11 performed by the office of the governor immediately before that
12 date are transferred to the Texas Treasury Safekeeping Trust
13 Company:

14 (1) all powers, duties, functions, and activities
15 related to equity positions in the form of stock or other security
16 the governor has taken, on behalf of the state, in companies that
17 received awards under the Texas emerging technology fund before
18 September 1, 2015; and

19 (2) all powers, duties, functions, and activities
20 related to other investments made by the governor, on behalf of the
21 state, in connection with an award made under the Texas emerging
22 technology fund before September 1, 2015.

23 SECTION 21. If a conflict exists between this Act and
24 another Act of the 84th Legislature, Regular Session, 2015, that
25 relates to the Texas emerging technology fund, this Act controls
26 without regard to the relative dates of enactment.

27 SECTION 22. Except as otherwise provided by this Act, this

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1 Act takes effect September 1, 2015.