

BILL ANALYSIS

Senate Research Center
81R25776 KFF-D

C.S.S.B. 783
By: Shapiro
Economic Development
4/21/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of the Governor is struggling to keep up with the number of applications being considered and awards already granted from the Texas Emerging Technology Fund (fund). Currently, the Office of the Governor is not required to create a report on the fund and its dealings and performance, which does not allow for legislative oversight.

Further, the governor's office is not able to contract with an outside entity to assist in applications and award offerings, so the only option is to expand the Office of the Governor to include more employees to handle the ever-increasing workload. Current law does not allow money from the fund to be used to attract research superiority from non-educational facilities.

C.S.S.B. 783 amends current law relating to the fund.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Transfers Section 490.057, Government Code, to Subchapter A, Chapter 490, rennumbers it as Section 490.004, Government Code, and amends it as follows:

Sec. 490.004. New heading: CERTAIN INFORMATION CONFIDENTIAL. (a) Provides that except as provided by Subsection (d), this section applies to information in any form provided by or on behalf of an individual or entity being considered for an award from the Texas emerging technology fund (fund) or a recipient of an award from the fund, including:

(1) information contained in, accompanying, or derived from any application; and

(2) information concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of the individual or entity. Deletes existing text providing that information collected by the governor's office, the Texas Emerging Technology Advisory Committee (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 an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) Provides that the information described by Subsection (a) collected, assembled, or maintained by or for the governor, the lieutenant governor, the speaker of the house of representatives, the committee, or the committee's advisory panels is confidential and is prohibited from being disclosed under Chapter 552 (Public Information).

(c) Requires that any application for an award from the fund that is withdrawn by the applicant before the award is made or that is denied be returned to the applicant promptly on request, together with all materials submitted by or on behalf of the applicant that relate to the application, except that a record of the submission and disposition of the application that does not include any information described by Subsection (a) may be retained.

(d) Requires the governor's office, not later than the 10th business day after the date a contract for an award from the fund is entered into under Section 490.101, to prepare a summary of the contract and to make the summary available to the public. Requires that the summary include the award recipient's name and address, the amount of funding applied for, and the type of emerging technology to which the award relates. Prohibits the summary from including any confidential information.

SECTION 2. Amends Subchapter A, Chapter 490, Government Code, by adding Sections 490.005 and 490.006, as follows:

Sec. 490.005. **AUTHORITY TO CONTRACT WITH AN OUTSIDE ENTITY.** (a) Defines "investment portfolio."

(b) Authorizes the governor to contract with an outside entity to:

(1) assist in the negotiation and drafting of contracts between the governor and a recipient of an award under this chapter;

(2) oversee outstanding awards and monitor compliance with a contract described by Subdivision (1);

(3) evaluate the fund's investment portfolio;

(4) advise the office of the governor regarding the value and performance of the investment portfolio; and

(5) assist the governor in preparing the annual report required by Section 490.006.

(c) Authorizes a contract described by Subsection (b) to provide for the outside entity to receive compensation from the fund each year.

(d) Requires an outside entity with which the governor contracts under this section to have substantial experience in evaluating institutional investment practices and performance in order to evaluate fund investment practices and performance.

Sec. 490.006. **ANNUAL REPORT.** (a) Defines "investment portfolio."

(b) Requires the governor, not later than January 1 of each year, to submit to the Legislative Budget Board (LBB) and post on the office of the governor's Internet website a report that includes the following information regarding the fund for the preceding state fiscal year:

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

(2) the number and amount of awards made under Subchapters D (Incentives for Commercialization Activities), E (Research Award Matching), and F (Acquisition of Research Superiority);

(3) the name of each award recipient, the recipient's organizational structure, and the amount of the awards made to the recipient;

(4) the total amount of funds received by each recipient from any source for a project that receives an award under Subchapter D, including the amount awarded to the recipient from the fund, the total amount of any funds received by the recipient from the private sector, and the amount of any federal grants or loans received by the recipient;

(5) a brief description of the investments that constitute the fund's investment portfolio as of the end of that reporting period; and

(6) the total value of the fund's investment portfolio as of the end of that reporting period.

(c) Requires that the annual report also include aggregate information regarding the planned and actual outcomes resulting from awards made from the fund during the preceding two state fiscal years.

(d) Prohibits the governor from disclosing in the report required by this section the name of any person in the private sector that invests in a project receiving an award under Subchapter D.

(e) Requires the governor to notify each member of the legislature by electronic mail when a new report required by this section is posted on the office of the governor's Internet website. Requires that the notification required by this subsection be sent to the electronic mail address provided to the member as a legislator and contain an electronic copy of the report or include an electronic link to the report on the website.

SECTION 3. Amends Section 490.101, Government Code, by amending Subsection (f) and adding Subsection (f-1), as follows:

(f) Authorizes the governor to award money appropriated from the fund only with the prior approval, rather than the express written prior approval, of the lieutenant governor and speaker of the house of representatives.

(f-1) Provides that for purposes of Subsection (f), an award of money appropriated from the fund is considered approved by the lieutenant governor or speaker of the house of representatives, as applicable, if the lieutenant governor or speaker of the house of representatives, as applicable, does not disapprove the proposal to award funding before the 61st day after the date of receipt of the proposal from the governor.

SECTION 4. Amends Section 490.102(a), Government Code, as follows:

(a) Requires that money appropriated to the fund by the legislature, less amounts necessary to administer the fund under Section 490.055 (Staff and Funding), be allocated as follows:

(1) 60, rather than 50, percent of the money for incentives for collaboration between certain entities as provided by Subchapter D;

(2) 10, rather than 16.67, percent of the money for research award matching as provided by Subchapter E; and

(3) 30, rather than 33.33, percent of the money for acquisition of research superiority as provided by Subchapter F.

SECTION 5. Amends Section 490.253(a), Government Code, as follows:

(a) Requires the committee to review and consider proposals by public institutions of higher education for:

(1) creating new research superiority;

(2) attracting existing research superiority from institutions of higher education not located in this state, rather than research superiority from institutions not located in this state and other research entities;

(3) attracting existing research superiority from entities other than institutions of higher education whether those entities are located in or outside this state;

(4) enhancing existing research superiority by attracting from institutions of higher education located outside this state additional researchers and resources; or

(5) enhancing existing research superiority by attracting additional researchers and resources from entities other than institutions of higher education whether those entities are located in or outside this state.

SECTION 6. Requires the governor, not later than January 1, 2011, to submit the initial report required by Section 490.006, Government Code, as added by this Act.

SECTION 7. Effective date: upon passage or September 1, 2009.