

BILL ANALYSIS

Senate Research Center

S.B. 632
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Natural Resources & Economic Development
7/8/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Nobel Laureates and National Academy members have a tangible impact on the Texas economy by bringing new commercialization activity to the state. S.B. 632 creates the Governor's University Research Initiative to help recruit these Nobel Laureates and National Academy members to Texas public universities, which will be a catalyst for economic development. The bill abolishes the Emerging Technology Fund and splits the unexpended balances between the Governor's University Research Initiative and the Texas Enterprise Fund.

S.B. 632 amends current law relating to the creation of the governor's university research initiative and to the abolishment of the Texas emerging technology fund.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Economic Development and Tourism Office within the office of the governor in SECTION 1 (Section 62.162, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 62, Education Code, by adding Subchapter H, as follows:

SUBCHAPTER H. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE

Sec. 62.161. DEFINITIONS. Defines "distinguished researcher," "eligible institution," "fund," "general academic teaching institution," "medical and dental unit," "office," and "private or independent institution of higher education."

Sec. 62.162. ADMINISTRATION OF INITIATIVE. (a) Provides that the governor's university research initiative is administered by the Texas Economic Development and Tourism Office (office) within the office of the governor of the State of Texas.

(b) Authorizes the office to adopt any rules the office considers necessary to administer this subchapter.

Sec. 62.163. MATCHING GRANTS TO RECRUIT DISTINGUISHED RESEARCHERS. (a) Requires the office to award matching grants from the governor's university research initiative fund (fund) to assist eligible institutions in recruiting distinguished researchers.

(b) Authorizes an eligible institution to apply to the office for a matching grant from the fund. Requires the office to award to the applicant institution a grant amount equal to the amount committed by the institution for the recruitment of a distinguished researcher if the office approves a grant application.

(c) Requires that the grant application identify the source and amount of the eligible institution's matching funds and demonstrate that the proposed use of the grant has the support of the institution's president and of the institution's governing board, the chair of the institution's governing board, or the chancellor of the university system, if the institution is a component of a university system. Authorizes an applicant eligible institution to commit for matching purposes any

funds of the institution available for that purpose other than appropriated general revenue.

(d) Prohibits a matching grant from being used by an eligible institution to recruit a distinguished researcher from:

- (1) another eligible institution; or
- (2) a private or independent institution of higher education.

Sec. 62.164. GRANT AWARD PRIORITIES. (a) Requires the office to give priority to grant proposals that involve the recruitment of distinguished researchers in the fields of science, technology, engineering, mathematics, and medicine in awarding grants. Requires the office to give priority to proposals that demonstrate a reasonable likelihood of contributing substantially to this state's national and global economic competitiveness with respect to proposals involving those fields.

(b) Provides that a grant proposal should identify a specific distinguished researcher being recruited.

Sec. 62.165. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE FUND. (a) Provides that the fund is a dedicated account in the general revenue fund.

(b) Provides that the fund consists of:

- (1) amounts appropriated or otherwise allocated or transferred by law to the fund;
- (2) money deposited to the fund under Section 62.166 of this subchapter or under Section 490.101(b-1), Government Code; and
- (3) gifts, grants, and other donations received for the fund.

(c) Provides that the fund may be used by the office only for the purposes of this subchapter, including for necessary expenses incurred in the administration of the fund and this subchapter.

Sec. 62.166. WINDING UP OF CONTRACTS AND AWARDS IN CONNECTION WITH FORMER TEXAS EMERGING TECHNOLOGY FUND. (a) Provides that the governor's university research initiative is the successor to the former Texas emerging technology fund. Requires that awards from the former Texas emerging technology fund be wound up in accordance with this section and Section 490.104, Government Code, and contracts governing awards from that fund be wound up in accordance with this section.

(b) Requires that royalties, revenues, or other financial benefits, if a contract governing an award from the Texas emerging technology fund provides for the distribution of royalties, revenue, or other financial benefits to the state, including royalties, revenue, or other financial benefits realized from the commercialization of intellectual or real property developed from an award from the fund, continue to be distributed in accordance with the terms of the contract unless the award recipient and the governor agree otherwise. Requires that, unless otherwise required by law, royalties, revenue, or other financial benefits accruing to the state under a contract described by this subsection, including any money returned or repaid to the state by an award recipient, be credited to the governor's university research initiative fund.

(c) Requires that money be distributed from the fund in accordance with the terms of the contract, unless the award recipient and the governor agree otherwise, if money awarded from the Texas emerging technology fund is encumbered by a

contract executed before September 1, 2015, but has not been distributed before that date.

(d) Provides that, except for an obligation regarding the distribution of royalties, revenue, or other financial benefits to the state as provided by Subsection (b), if money awarded from the Texas emerging technology fund under a contract executed before September 1, 2015, has been fully distributed and the entity that received the award has fully performed all specific actions under the terms of the contract governing the award, the entity is considered to have fully satisfied the entity's obligations under the contract. Requires the entity to file with the office a final report showing the purposes for which the award money has been spent and, if award money remains unspent, the purposes for which the recipient will spend the remaining money.

Sec. 62.167. CONFIDENTIALITY OF INFORMATION CONCERNING AWARDS FROM TEXAS EMERGING TECHNOLOGY FUND. (a) Provides that, except as provided by Subsection (b), information collected under former provisions of Chapter 490 (Funding for Merging Technology), Government Code, concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity that was considered for or received an award from the Texas emerging technology fund is confidential unless the individual or entity consents to disclosure of the information.

(b) Provides that the following information collected in connection with the Texas emerging technology fund is public information and may be disclosed under Chapter 552 (Public Information), Government Code:

(1) the name and address of an individual or entity that received an award that fund;

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

(3) a brief description of the project funded under former provisions of Chapter 490, Government Code;

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

(5) any other information with the consent of:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives; and

(D) the individual or entity that received an award from that fund, if the information relates to that individual or entity.

Sec. 62.168. REPORTING REQUIREMENT. (a) Requires the governor, before the beginning of each regular session of the legislature, to submit to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over economic development and higher education matters and post on the office of the governor's Internet website a report on matching grants made to eligible institutions from the fund that states:

(1) the total amount of matching funds granted by the office;

(2) the total amount of matching funds granted to each recipient institution;

(3) a brief description of each distinguished researcher recruited by each recipient institution, including any amount of external research funding that followed the distinguished researcher to the institution;

(4) a brief description of the expenditures made from the matching grant funds for each distinguished researcher; and

(5) when available, a brief description of each distinguished researcher's contribution to the state's economic competitiveness, including:

(A) any patents issued to the distinguished researcher after accepting employment by the recipient institution; and

(B) any external research funding, public or private, obtained by the distinguished researcher after accepting employment by the recipient institution.

(a-1) Prohibits the report from including information that is made confidential by law.

(b) Authorizes the governor to require an eligible institution that receives a matching grant under this subchapter to submit, on a form the governor provides, information required to complete the report.

SECTION 2. Amends Subchapter C, Chapter 490, Government Code, by adding Section 490.104, as follows:

Sec. 490.104. **MANAGEMENT OF INVESTMENT PORTFOLIO; WINDING UP AND FINAL LIQUIDATION.** (a) Defines "state's emerging technology investment portfolio" for purposes of this section.

(b) Requires the Texas Treasury Safekeeping Trust Company to manage and wind up the state's emerging technology investment portfolio. Requires the trust company to wind up the portfolio in a manner that, to the extent feasible, provides for the maximum return on the state's investment. Authorizes the trust company, in managing those investments and associated assets through procedures and subject to restrictions that the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment or associated assets that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment or associated asset. Authorizes the trust company to recover its reasonable and necessary costs incurred in the management of the portfolio from the earnings on the investments and associated assets in the portfolio.

(c) Requires that any realized proceeds or other earnings from the sale of stock or other investments or associated assets in the state's emerging technology investment portfolio, less the amount permitted to be retained for payment of its costs for managing the portfolio as provided by Subsection (b), be remitted by the Texas Treasury Safekeeping Trust Company to the comptroller of public accounts of the State of Texas (comptroller) for deposit in the general revenue fund.

(d) Provides that the Texas Treasury Safekeeping Trust Company has any power necessary to accomplish the purposes of this section.

(e) Requires the Texas Treasury Safekeeping Trust Company, on final liquidation of the state's emerging technology investment portfolio, to promptly notify the comptroller of that occurrence. Requires the comptroller, as soon as practicable after receiving that notice, to verify that the final liquidation has been completed and, if the comptroller so verifies, to certify to the governor that the final

liquidation of the portfolio has been completed. Requires the governor to post notice of the certification on the office of the governor's Internet website.

(f) Requires that any balance remaining in the Texas emerging technology fund on final liquidation by the Texas Treasury Safekeeping Trust Company be remitted to the comptroller for deposit in the general revenue fund.

SECTION 3. Amends Section 490.101, Government Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Requires that benefits realized from a project undertaken with money from the fund, as provided by a contract entered into under former Section 490.103 before September 1, 2015, notwithstanding Subsection (b) (requiring certain amounts to be deposited into the fund), be deposited to the credit of the governor's university research initiative fund established under Subchapter H, Chapter 62, Education Code.

(b-2) Authorizes the fund to be used only for the purposes described by Section 490.104.

SECTION 4. (a) Repealers: Sections 490.101(c) (providing that the Texas emerging technology fund (fund) may be used only for certain purposes set forth), (d) (authorizing the Texas Emerging Technology Advisory Committee (committee) to solicit and accept gifts and grants for the fund from public and private entities), (e) (authorizing the fund to be temporarily used by the comptroller for cash management purposes), (f) (providing that the administration of the fund is considered to be a trustee program within the office of the governor), (f-1) (providing that an award of money appropriated from the fund is considered disapproved by the lieutenant governor or speaker of the house of representatives if that officer does not approve the proposal to award funding before the 91st day after the date of receipt of the proposal from the governor), (g) (requiring the governor, before making an award under this chapter, to enter into a written agreement that meets certain requirements with the entity to receive the award), (h) (authorizing the governor to make awards in the form of loans, charge and receive reasonable interest for the loans, take an equity position in the form of stock or other security in consideration of an award, and sell or otherwise trade or exchange the security for the benefit of the fund), and (i) (authorizing the contract between the governor and a recipient of an award under this chapter to set the terms relating to an award), Government Code;

Repealers: Sections 490.102 (Allocation of Fund) and 490.103 (Allocation of Proceeds), Government Code; and

Repealers: Subchapters A (General Provisions), B (Texas Emerging Technology Advisory Committee), D (Incentives for Commercialization Activities), E (Research Award Matching), F (Acquisition of Research Superiority), and G (Clean Coal Projects), Chapter 490, Government Code.

(b) Provides that the fund is continued solely for the purposes of winding up the contracts governing awards from that fund and the state's portfolio of equity positions and other investments and associated assets in connection with awards from that fund in accordance with Section 490.104, Government Code, as added by this Act. Provides that the Texas emerging technology fund is abolished and Sections 490.101(a) (providing that the fund is a dedicated account in the general revenue fund), (b), (b-1), and (b-2), Government Code, are repealed when the comptroller certifies to the governor as provided by Section 490.104, Government Code, as added by this Act, that the final liquidation of the state's portfolio of equity positions and other investments and associated assets by the Texas Treasury Safekeeping Trust Company has been completed. Provides that, on the effective date of this Act, any unencumbered fund balance in the Texas emerging technology fund may be appropriated in accordance with Subsection (e) of this section.

(c) Provides that the abolishment by this Act of the Texas emerging technology fund and the repeal of provisions of Chapter 490 (Funding for Emerging Technology), Government Code, relating to that fund do not affect the validity of an agreement between the governor and the recipient of an award awarded under Chapter 490, or a

person to be awarded money under that chapter, that is executed before September 1, 2015. Requires that those agreements be performed as provided by Section 62.166, Education Code, as added by this Act.

(d) Provides that a regional center of innovation and commercialization established under Section 490.152 (Regional Centers of Innovation and Commercialization), Government Code, is abolished on the effective date of this Act. Requires that each center transfer to the office of the governor a copy of any meeting minutes required to be retained under Section 490.1521 (Minutes of Certain Meetings), Government Code, as that section existed immediately before that section's repeal by this Act, and requires the office to retain the minutes for the period prescribed by that section.

(e) Provides that any unencumbered balance of the Texas emerging technology fund may be appropriated only to one or more of the following:

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

(2) the Texas research university fund, subject to Subsection (f) of this section;

(3) the governor's university research initiative fund established under Subchapter H, Chapter 62, Education Code, as added by this Act;

(4) the Texas Enterprise Fund established under Section 481.078 (Texas Enterprise Fund), Government Code; and

(5) the comptroller for the purposes of expenses incurred in managing the state's portfolio of equity positions and other investments in connection with awards from the Texas emerging technology fund in accordance with Section 490.104, Government Code, as added by this Act.

(f) Provides that the authority of the Texas research university fund to receive the appropriation described by Subsection (e) of this section is contingent on passage and enactment of H.B. 1000, or similar legislation relating to state support for general academic teaching institutions in this state by the 84th Legislature, Regular Session, 2015, that renames the existing Texas competitive knowledge fund and changes the purposes for which the fund can be used.

(f-1) Requires the comptroller, on the effective date of this Act, to transfer the encumbered balance of the Texas emerging technology fund to the credit of the governor's university research initiative fund established under Subchapter H, Chapter 62, Education Code, as added by this Act, for the purposes of Section 62.166, Education Code, as added by this Act.

(g) Provides that, except as provided by this Act, on September 1, 2015, the following powers, duties, functions, and activities performed by the office of the governor immediately before that date are transferred to the Texas Treasury Safekeeping Trust Company:

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

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

(h) Provides that, notwithstanding the repeal by this Act of provisions of Chapter 490, Government Code, those provisions of Chapter 490 are continued in effect for the limited purpose of winding up contracts governing awards from the Texas emerging technology fund in accordance with Section 62.166, Education Code, as added by this Act, and of winding up the state's portfolio of equity positions and other investments and associated assets in connection with awards from that fund in accordance with Section 490.104, Government Code, as added by this Act.

SECTION 5. Effective date: September 1, 2015.