

By: Button

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), (e-3), 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-3) [~~(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) Of the amount of money available in each state fiscal
8 year for distribution from the fund for awarding grants:

9 (1) 20 percent may be used only for grants to small
10 businesses as provided by Subsection (k);

11 (2) 15 percent may be used only for grants to public or
12 private institutions of higher education for projects involving
13 commercialization of property as provided by Section 481.081; and

14 (3) 65 percent may be used only for the other purposes
15 for which money from the fund may be used.

16 (e-2) The governor may award money appropriated from the
17 fund only with the prior approval of the lieutenant governor and
18 speaker of the house of representatives. For purposes of this
19 subsection, an award of money appropriated from the fund is
20 considered disapproved by the lieutenant governor or speaker of the
21 house of representatives if that officer does not approve the
22 proposal to award the grant before the 91st day after the date of
23 receipt of the proposal from the governor. The lieutenant governor
24 or the speaker of the house of representatives may extend the review
25 deadline applicable to that officer for an additional 14 days by
26 submitting a written notice to that effect to the governor before
27 the expiration of the initial review period.

1 (e-3) [~~(e-1)~~] To be eligible to receive a grant under this
2 section, the entity must:

3 (1) be in good standing under the laws of the state in
4 which the entity was formed or organized, as evidenced by a
5 certificate issued by the secretary of state or the state official
6 having custody of the records pertaining to entities or other
7 organizations formed under the laws of that state; and

8 (2) owe no delinquent taxes to a taxing unit of this
9 state.

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

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

18 (A) the recipient shall repay the grant and any
19 related interest to the state at the agreed rate and on the agreed
20 terms;

21 (B) the governor will not distribute to the
22 recipient any grant money that remains to be awarded under the
23 agreement; and

24 (C) the governor may assess specified penalties
25 for noncompliance against the recipient;

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

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

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

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

9 (ii) share with the state a proportionate
10 amount of any profit realized from the sale; and

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

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

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

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

23 (3) for individual projects that create 100 or fewer
24 additional jobs.

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

27 The rules must include:

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

3 (2) procedures for evaluating grant applications;

4 (3) provisions governing the grant agreement process;

5 (4) methods and procedures for monitoring grant
6 recipients and projects or activities for which a grant is awarded
7 from the fund to determine whether and to what extent the grant
8 recipients comply with job creation performance targets, capital
9 investment commitments, or other specified performance targets in
10 the grant agreement, including requirements that grant recipients
11 provide to the office periodic compliance updates;

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

14 (6) conflict of interest provisions to ensure that
15 persons involved in the operation of the program, including persons
16 involved in evaluating applications for or awarding grants from the
17 fund or in monitoring grant recipients or determining compliance
18 with the terms of grant agreements, do not have a substantial
19 interest in any grant recipient or grant awarded from the fund.

20 SECTION 2. Section [481.079](#)(a-1), Government Code, is
21 amended to read as follows:

22 (a-1) For grants awarded for a purpose specified by Section
23 [481.078](#)(d-1) or 481.081, the report must include only the amount
24 and purpose of each grant.

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

27 Sec. 481.081. TEXAS ENTERPRISE FUND: GRANT FOR UNIVERSITY

1 RESEARCH DEVELOPMENT WITH PRIVATE SPONSORSHIP. (a) In this
2 section:

3 (1) "Fund" means the Texas Enterprise Fund under
4 Section 481.078.

5 (2) "Public or private institution of higher
6 education" means an institution of higher education or a private or
7 independent institution of higher education as those terms are
8 defined by Section 61.003, Education Code.

9 (b) The governor shall provide grants from the fund to
10 supplement other funding for projects involving the
11 commercialization of intellectual property or other property
12 derived from research developed at or through a public or private
13 institution of higher education. To be eligible for a grant under
14 this section, a project must be supported by funding provided by one
15 or more private entities participating in the project, in addition
16 to any funding provided by the public or private institution of
17 higher education.

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

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

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

27 (1) the equity positions in the form of stock or other

1 security the governor took, on behalf of the state, in companies
2 that received awards under the former Texas emerging technology
3 fund; and

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

7 (b) The trust company shall manage the state's emerging
8 technology investment portfolio in a manner that a prudent investor
9 would employ exercising reasonable care, skill, and caution, taking
10 into consideration the investment of all assets of the portfolio.
11 The trust company may recover its reasonable and necessary costs
12 incurred in the management of the portfolio from the earnings on the
13 investments in the portfolio.

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

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

23 Sec. 404.1032. VALUATION OF INVESTMENTS FROM FORMER FUND;
24 ANNUAL REPORT. (a) To the maximum extent practicable, the trust
25 company annually shall perform a valuation of the equity positions
26 the governor took, on behalf of the state, in companies that
27 received awards under the former Texas emerging technology fund and

1 of other investments made by the governor, on behalf of the state,
2 in connection with an award under that fund. The valuation must be
3 based on a methodology that is consistent with generally accepted
4 accounting principles.

5 (b) Not later than January 31 of each year, the trust
6 company shall submit to the lieutenant governor, the speaker of the
7 house of representatives, and the standing committee of each house
8 of the legislature with primary jurisdiction over economic
9 development matters and post on the office of the trust company's
10 Internet website a report of any valuation performed under this
11 section during the preceding state fiscal year.

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

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

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

18 (2) "Fund" means the former Texas emerging technology
19 fund.

20 (4) "Award" means:

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

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

25 (C) for purposes of former Subchapter F, a grant;
26 or

27 (D) other forms of contribution or investment as

1 recommended by the former Texas Emerging Technology Advisory
2 Committee [~~committee~~] and approved by the governor, lieutenant
3 governor, and speaker of the house of representatives before
4 amendment of this chapter by the 84th Legislature, Regular Session,
5 2015.

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

8 Sec. 490.005. REPORT ON AWARDS FROM FORMER FUND [~~ANNUAL~~
9 ~~REPORT~~].

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

13 (a) Not later than January 31, 2016 [~~of each year~~], the
14 governor shall submit to the lieutenant governor, the speaker of
15 the house of representatives, and the standing committee of each
16 house of the legislature with primary jurisdiction over economic
17 development matters and post on the office of the governor's
18 Internet website a report that includes for each preceding state
19 fiscal year the following information regarding awards made under
20 the fund [~~during each preceding state fiscal year~~]:

21 (1) the total number and amount of awards made;
22 (2) the number and amount of awards made under former
23 Subchapters D, E, and F;

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

1 (4) the name of each award recipient and the amount of
2 the award made to the recipient; and

3 (5) a brief description of the equity position that
4 the governor, on behalf of the state, has taken [~~may take~~] in
5 companies that received [~~receiving~~] awards and the names of the
6 companies in which the state has taken an equity position.

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

8 (1) the total number of jobs actually created by each
9 project that received an award from the fund [~~receiving funding~~
10 ~~under this chapter~~];

11 (2) an analysis of the number of jobs actually created
12 by each project that received an award from the fund [~~receiving~~
13 ~~funding under this chapter~~]; and

14 (3) a brief description regarding:

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

18 (B) the intended outcomes of projects funded
19 under former Subchapter D [~~during each preceding state fiscal~~
20 ~~year~~]; and

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

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

27 SECTION 10. Effective September 1, 2016, Subchapter A,

1 Chapter 490, Government Code, is amended by adding Section 490.0051
2 to read as follows:

3 Sec. 490.0051. ANNUAL REPORT ON PROJECTS FUNDED; JOB
4 CREATION AND OUTCOMES. (a) Not later than January 31 of each year,
5 the governor shall submit to the lieutenant governor, the speaker
6 of 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 contains for each preceding state
10 fiscal year the following information regarding awards made under
11 the fund:

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

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

16 (3) a brief description regarding:

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

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

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

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

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

2 SECTION 11. Section 490.006, Government Code, is amended to
3 read as follows:

4 Sec. 490.006. VALUATION OF INVESTMENTS; [~~INCLUSION IN~~]
5 ANNUAL REPORT. (a) To the maximum extent practicable, the office
6 of the governor shall annually perform a valuation of the equity
7 positions taken by the governor, on behalf of the state, in
8 companies that received [~~receiving~~] awards under the fund and of
9 other investments made by the governor, on behalf of the state, in
10 connection with an award under the fund. The valuation must[+]

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

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

14 (2) [~~(B)~~] is consistent with generally accepted
15 accounting principles[~~, and~~

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

18 (b) Except as provided by Subsection (c), not later than
19 January 31, 2016, the governor shall submit to the lieutenant
20 governor, the speaker of the house of representatives, and the
21 standing committee of each house of the legislature with primary
22 jurisdiction over economic development matters and post on the
23 office of the governor's Internet website a report of any valuation
24 performed under this section during the preceding state fiscal
25 year.

26 (c) A valuation performed for the state fiscal year ending
27 August 31, 2015, must be included with the report required under

1 Section 490.005.

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

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

5 SUBCHAPTER B. MISCELLANEOUS PROVISIONS [~~TEXAS EMERGING TECHNOLOGY~~
6 ~~ADVISORY COMMITTEE~~]

7 SECTION 13. Section 490.057, Government Code, is amended to
8 read as follows:

9 Sec. 490.057. CONFIDENTIALITY. (a) Except as provided by
10 Subsection (b), information collected by the governor's office, the
11 former Texas Emerging Technology Advisory Committee [~~committee~~],
12 or the committee's advisory panels concerning the identity,
13 background, finance, marketing plans, trade secrets, or other
14 commercially or academically sensitive information of an
15 individual or entity that was [~~being~~] considered for or [~~—~~
16 ~~receiving, or having~~] received an award from the fund is
17 confidential unless the individual or entity consents to disclosure
18 of the information.

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

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

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

27 (3) a brief description of the project [~~that is~~]

1 funded under this chapter;

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

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

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

9 (B) the governor;

10 (C) the lieutenant governor; and

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

12 SECTION 14. Section [50D.013\(a\)](#), Agriculture Code, is
13 amended to read as follows:

14 (a) The policy council shall:

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

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

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

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

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

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

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

5 (8) perform other advisory duties as requested by the
6 commissioner regarding the responsible development of bioenergy
7 resources in this state.

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

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

12 [~~(1)~~] Texas Enterprise Fund created under Section
13 481.078, Government Code[+~~or~~

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

16 SECTION 16. The following laws are repealed:

17 (1) Sections 490.001(1), (3), and (5), Government
18 Code;

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

20 (3) Sections 490.051, 490.052, 490.0521, 490.053,
21 490.054, 490.055, and 490.056, Government Code; and

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

24 SECTION 17. (a) On September 1, 2015, the Texas emerging
25 technology fund is abolished and, except as provided by Subsections
26 (c) and (d) of this section, the comptroller shall transfer the
27 unencumbered balance of the fund as follows:

1 (1) 50 percent of the balance to the credit of the
2 Texas Research Incentive Program (TRIP) under Subchapter F, Chapter
3 62, Education Code; and

4 (2) 50 percent of the balance to the credit of the
5 skills development fund program under Chapter 303, Labor Code.

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

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

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

1 (e) On or after the effective date of this Act, subject to
2 any amounts used to recover costs under Section 404.1031(b),
3 Government Code, as added by this Act, the following payments or
4 other amounts shall be sent to the comptroller for deposit to the
5 general revenue fund:

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

10 (2) any interest or proceeds received as a result of a
11 transaction authorized by former Section 490.101(h), Government
12 Code;

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

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

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

22 SECTION 18. A regional center of innovation and
23 commercialization established under Section 490.152, Government
24 Code, is abolished on the effective date of this Act. Each center
25 shall transfer to the office of the governor a copy of any meeting
26 minutes required to be retained under Section 490.1521, Government
27 Code, as that section existed immediately before that section's

1 repeal by this Act, and the office shall retain the minutes for the
2 period prescribed by that section.

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

6 SECTION 20. Except as provided by this Act, on September 1,
7 2015, the following powers, duties, functions, and activities
8 performed by the office of the governor immediately before that
9 date are transferred to the Texas Treasury Safekeeping Trust
10 Company:

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

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

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

24 SECTION 22. Except as otherwise provided by this Act, this
25 Act takes effect September 1, 2015.