Texas Enterprise Fund's Future Uncertain as Politicians Run From Perry's Crown Jewel

By Kerri Fivecoat-Campbell

It has been 11 years since Texas legislators agreed with Governor Rick Perry that the state needed to create more incentives to attract business. The result was the creation of the Texas Enterprise Fund (TEF), a taxpayer-financed account that incents businesses to expand, stay, or relocate to the Lone Star State.

Since its inception, TEF has awarded $508 million to various corporations including Texas A&M University, JP Morgan Chase, Apple, Rackspace, Samsung, T-Mobile, Chevron USA, and Dow Chemical. The latest award announcement is to Omnitronics, a San Diego-based technology firm planning to relocate from California to Dallas in 2015.

Proponents of the fund have hailed the fund's ability to draw business, money, and jobs to Texas while critics have called TEF "corporate welfare" and nothing more than a slush fund to help finance political careers.

As the governor's term draws to a close, companies are still being awarded money that is left in the fund, but it seems that politicians aren't eager to put their name on its continuation. Among the loudest critics are those who believe the fund shouldn't be renewed because of the large cuts to public education in the state. In fact, TEF hasn't received new funding since 2011, and new regulations were put into place in 2013 that are supposed to ensure auditing. Additionally, candidates for governor have given mixed signals on their stance on TEF.

Even local politicians whose areas have seen companies benefit from the fund hedge when asked about TEF. "I'm in the middle; I'm not for or against it," said Sam Biscoe, Travis County (which includes Austin) judge. "I am for protecting the Travis County taxpayer, but I do believe the fund is important to try to attract major companies."

TEF's History

In 2003, Texas nearly lost a bid for Toyota to build a new manufacturing plant in San Antonio. Governor Perry convinced the legislature that it needed to do something to help draw more business to the state. The TEF was initially created with $285 million of the state's rainy day fund. The governor's website claims the fund is the largest "deal closing fund" of its kind in the country.

To be eligible for funds, companies must be financially secure and promise to create more than 75 jobs in urban areas and 25 in rural areas with a significant capital investment. Texas must also be in competition with another state for relocation, and the company cannot have decided prior to application on the new location.

In addition, the project must have community involvement from the city, county, and/or school district, primarily in the form of local economic incentive offers. If a company meets all of these requirements, the project is decided on by the governor, lieutenant governor, and speaker of the house.

With the slogan, "Texas Wide Open for Business," the TEF has awarded more than 100 companies money to relocate, expand, or stay in Texas. Some of the earliest companies to apply for money from the fund had some of the highest awards, according to a governor's report on the TEF.

Texas A&M and Lexicon Pharmaceuticals received $50 million in the first fiscal year; JP Morgan Chase, $15 million; and Sematech was awarded $40 million in incentives not to relocate to Albany, New York. Sematech is an Austin-based computer chip company. From fiscal year 2004-2005, the fund was supposed to have created over 29,000 jobs in Texas.

Countrywide Financial, a high-risk lender which received $20 million from the fund in 2004, like

TEF BY THE NUMBERS

In addition to the companies listed in the story, according to a June 2014 report from the Office of the Governor, these corporations are expected to benefit from TEF in 2014-2015:

$5 million United Services Automobile Association

$5 million athenahealth

$4.5 million Websense Security Labs

$2.1 million Natgasoline

$1.5 million Dropbox

$1.2 million Prudential Insurance with Hinduja Global Solutions

$1 million Oracle

$ .3 million Maverick Arms

so many, collapsed amidst the recession and real estate bust by 2008. The company was acquired by Bank of America, but it never realized its job creation goals and only paid back about $8.4 million it received. Perhaps the collapse of Countrywide (the TEF award is listed in paperwork now as going to Bank of America) is what led some watchdog groups, including Texans for Public Justice, to begin investigations into the fund and how it is distributed.

The Critical Report

Texans for Public Justice describes itself as a non-partisan group that investigates political campaign contributions in the state. The organization also files ethics complaints and was responsible for the complaint that resulted in Perry's recent indictment.

"We're typically described as liberal," said Andrew Wheat, research director for the Austin based organization. "But I think we're more conservative than most conservatives, depending on the issue. We just have qualms about handing out taxpayer dollars to corporations and think we should be spending money on education and healthcare."

Wheat's point is that providing incentives to companies shouldn't be a partisan issue.

In 2010, the organization published a report based on its investigation of 50 companies that had received funds in 2008-2009.

Among the problems it found was that the governor had received campaign contributions from political action committees, executives, and investors with ties to companies that had also received money from TEF. Among them were Sanderson Farms, which received $500,000, and McLand Advanced Technologies, which was handed a $1 million grant.

"How do you design an incentive system in which politicians give money away in a non-political way?" Wheat asked. "If we're going to have incentive programs, the process should be heavily separated from politics."

Governor Rick Perry's office ignored numerous requests for an interview with *NBIZ Magazine* about TEF. However, in previous statements, his office has said that grants from TEF had nothing to do with campaign contributions, and his office has defended the appropriation of funds, saying that the governor is among three people who make the ultimate decision of which companies receive funds. As well, his office has stated that the legislature controls the budget.

Wheat said another major problem his organization found with TEF was that it wasn't creating the number of jobs it claimed. For example, he said that Texas A&M and Lexicon Pharmaceuticals, which received $50 million in the first year of the program, were supposed to create 5,000 jobs in the Texas Institute for Genome Medicine (TIGM). Instead, TIGM only created jobs for six lab personnel. Reports issued by the governor's office shows that 31,152 jobs were created, which represents the total number of employees in the entire university system. Subtracting those 31,000 jobs would substantially lower the estimated 73,000 jobs the fund claims since its inception. "The biggest question here is how... the number of jobs are actually created, defined," said Wheat. "Some of these numbers are outright fraud."

Semtech, which received $40 million from the fund in its first year as incentive not to move to New York, is listed in the governor's report as having created over 4,600 jobs, 600 more than the 4,000 it promised in 2003. But in 2011, the company eventually did pull up stakes and head north to Albany. The report concluded that only one third of the companies were meeting their goals with regards to job creation and "clawback" penalties for companies that weren't reaching goals was only about one percent of the total disbursements.

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The final, strongest argument Wheat makes against TEF is the fact that many of the companies that have received funds from TEF are cash rich, and most of them would likely have moved their operations to Texas without the incentives. Apple, for example, which received $21 million from the fund in 2012 to expand its campus in Austin, had nearly $100 billion cash on hand at the time. Some Austin city councilmembers at the time were quoted as saying that Apple would not have moved to Phoenix because of its existing operations in Texas. Even Governor Jan Brewer of Arizona said she wasn't surprised to hear that Apple had not chosen Phoenix because it had been located in Austin for two decades.

Digging for Gold

California, The Golden State, has proven quite a goldmine for TEF. During the 2011–2012 fiscal year alone, one fifth of the companies that took advantage of TEF relocation deals came from California. This year, two high profile companies announced their intentions to relocate.

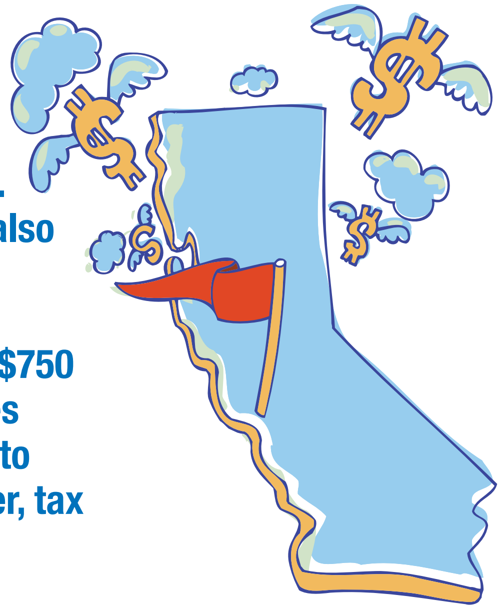
Last winter, Occidental Petroleum Company announced plans to move to Houston. In the spring, Toyota, which has been a fixture in southern California since 1957, announced it would close its Torrance, California facility to open new North American headquarters in Plano. Toyota, in recent years, has shifted most of its operations from the west coast to Kentucky, Mississippi, and Texas. This shift has happened despite the closer proximity to Tokyo as the cost of doing business is cheaper. In fact, Toyota will receive $44 million from TEF, and critics say it is another company that had a high probability of moving to Texas anyhow, where its executives would be closer to all of its facilities in the south.

Omnitronics is another one of approximately 50 to 60 California businesses Governor Perry's office said is moving or has moved to Texas since 2012 thanks to TEF. The 33-year old company was founded to improve the design and efficiency of two-way radio peripherals. In December of last year, the company was acquired by Vista Equity Partners.

"We determined it was essential to locate our business in the central US, allowing us to be closer to the lion's share of our customers who are east of the Rocky Mountains," said Jordan Copland, chief financial officer for Omintronics. The company expects to receive $3.9 million from TEF and will occupy 100,000 square feet of office space in the downtown area by 2015.

Omnitronics has promised 450 employees will be hired in the coming years, but Copland said he cannot yet say how many of those will be new employees and how many will be from the 300 current employees in San Diego. "Our growth plans have us exceeding that commitment," he said.

California is trying to fight back by creating more incentives of its own and not just against Texas. New York and Florida are also known for aggressively recruiting companies with relocation incentives. The $750 million California Competes program is still not set up to give cash grants but, rather, tax incentives.



San Diego has been a prime hunting ground for luring companies out of California. In 2012, Ruben Barrales, the former chief executive of the San Diego Regional Chamber of Commerce told the *New York Times*, "Governor Perry is here quite a bit. He meets with companies. He's letting people know if they're interested in further growth, Texas will greet them with open arms. He's not very shy about it."

That tide hasn't seemed to slow. Governor Perry was in California in March of this year, continuing to recruit companies. "Obviously, it's a concern any time a county loses companies," said Jerry Sanders, the current CEO/president of the San Diego Regional Chamber of Commerce, "especially when those companies have provided good jobs and have been in San Diego for a while."

Copland said that Omnitronics did not request or receive tax incentives for the move. "The difference in the state income tax rates were [a] secondary, though important consideration for us, especially for our employees," said Copland. "As far as other savings are concerned, the cost of living for our employees is lower, and the lease cost for our new headquarters location is a fraction of what we pay for comparable space in San Diego." Copland added that California has a "host of programs" that were investigated. "But they did not offer us a cash grant or any other monetary incentive of consequence."

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A recent story in the *Los Angeles Times* quoted Will Koch, a deputy director in the office of Business and Economic Development who oversees the program in California as saying, "We're not writing a check." Rather, the companies receiving benefits from the program will offer tax incentives. California officials believe this move, as well as better defining goals, will give the state more leverage in dealing with companies that do not meet economic or job projections.

The plan is also more specific in outlining salary levels for the jobs created. In Texas, TEF only requires jobs to be "high-paying" or above the average for wages in the county where the jobs are located. Some counties and cities have passed laws requiring a specific hourly rate. For instance, in Travis County, it is $11 per hour, a figure which Biscoe said the companies that have received TEF funds there have not had a problem meeting.

California's plan is just in its infancy, so it is still up for debate how much it will allow the state to compete with Texas and other states' incentive programs. In June, the state reported that more than 40 percent of the $29 million incentive packages went to companies such as Amazon, Petco, and Samsung, which were also wooed by TEF.

The Future of TEF

At the beginning of 2014, the TEF had a little over $76 million left to spend. Wheat said the fact that the legislature has failed to provide further funding to the account speaks volumes. "There are signs in the legislature that there is discomfort with it," said Wheat.

The current Texas attorney general, Greg Abbott, who is considered the leading contender for governor on the Republican ticket, once said that the government needs to "get out of the business of picking winners and losers." He has also indicated that if a state has an appropriate tax structure, that will be the deciding factor in whether a company moves to the state or not.

State senator Wendy Davis, the Democrat running for governor has stumped at Rackspace, which received $22 million from the fund in 2007. However, she has also moved, in 2011, to defund TEF, an idea which was rejected. In 2013, she co-authored the bill that requires audits into the fund.

Like it or hate it, proponents and opponents alike agree on one thing: such incentives probably will not go away in the near future. "States will always compete for business," said Sanders. "All states are always trying to create more jobs, and I don't think it will stop any time soon."

Wheat, who agrees that there probably is no end in sight for these types of incentives, puts it into another perspective. "Some states, such as Nevada, would like to create these types of incentives but to come up with millions of dollars is very difficult," said Wheat. "Why does Nevada have to compete against Texas or Texas with California? At what point do these programs become divisive, and isn't there more to gain from cooperation than competition? Aren't we all Americans?" N

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