

SUBJECT: Revisions to the Cancer Prevention and Research Institute of Texas

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Hopson, S. King, Laubenberg, McReynolds, Truitt, Zerwas

0 nays

1 absent — Gonzales

WITNESSES: For — Mark Clanton, American Cancer Society; (*Registered, but did not testify:* Lee Ann Alexander; Jay Barksdale, Dallas Regional Chamber; Ed Berger, Seton Family of Hospitals; Rebecca Birch, Susan G. Komen for the Cure; Miryam Bujanda, Methodist Healthcare Ministries; Kristen Doyle, Leukemia & Lymphoma Society; Greg Herzog, Texas Medical Association; Lauren Hutton, Lance Armstrong Foundation; David Marwitz, Texas Dermatological Society; Marcus Mitias, Texas Health Resources; Amber Pearce, Texas Healthcare and Bioscience Institute; Denise Rose, Texas Hospital Association; Gabriela Saenz, CHRISTUS Health)

Against — None

On — Sandra Balderrama, Scott Sanders, Cancer Prevention and Research Institute of Texas

BACKGROUND: In November 2007, Texas voters approved Proposition 15 (HJR 90 by Keffer), a constitutional amendment, now Art. 3, sec. 67, requiring the Legislature to establish the Cancer Prevention and Research Institute of Texas (CPRIT) and authorizing issuance of up to \$3 billion in general obligation bonds on behalf of the Institute over 10 years. Bond issuance may not exceed \$300 million per year. The purpose of CPRIT is to support researchers in finding the causes of and cures for all types of cancer, provide grants for cancer research and research facilities, and establish the appropriate standards and oversight bodies to ensure the proper use of funds. The enabling legislation for the Institute, HB 14 by Keffer, was enacted by the 80th Legislature in 2007.

HB 14 established an 11-member Oversight Committee as the governing body of the Institute. Nine members are appointed by the governor, the lieutenant governor, and the speaker of the House to serve four-year terms. The comptroller and the attorney general or their designees serve on the committee as well.

A single Scientific Research and Prevention Programs Committee was established to perform grant application review and make recommendations regarding the award of research, therapy, development, and clinical trial grants. This committee has nine voting members, including health care professionals, representatives of health care facilities, and representatives of voluntary health organizations. The voting members are appointed by the governor, the lieutenant governor, and the speaker of the House. Nine non-voting members represent public and private educational institutions. Committee members serve four-year terms.

DIGEST:

CSHB 1358 would revise the composition and duties of certain Cancer Prevention and Research Institute committees as well as the terms of certain committee members. The bill would revise the grant-making process and the powers granted to the Institute's executive director.

Oversight committee. The Oversight Committee would adopt the rules governing the Institute and its duties, including the procedures for awarding grants. The Oversight Committee would create an ad hoc committee on childhood cancers and would create other ad hoc committees as necessary to advise the Oversight Committee. The appointed members of the Oversight Committee would serve staggered six-year terms.

Scientific Research and Prevention Programs committees. CSHB 1358 would repeal provisions relating to the composition of the Scientific Research and Prevention Programs Committee and the requirement that the committee members must represent the geographic and cultural diversity of the state. More than one Scientific Research and Prevention Programs committee could be established. With approval of a simple majority of the Oversight Committee, the Institute's executive director would appoint the members of the Scientific Research and Prevention Programs committee for terms determined by the executive director. The committee members would be cancer prevention and research experts and could receive an honorarium.

University Advisory Committee. The bill would establish a University Advisory Committee to advise the Oversight Committee about the role of higher education institutions in cancer research. The University Advisory Committee would be composed of nine members appointed by certain university presidents and university system chancellors. At the executive director's discretion, more members could be appointed by the chancellors of other institutions.

General provisions relating to committees. Committee members would have to disclose to the executive director any interest they held in a matter before their committee or a financial interest they held in an entity that had a direct interest in their committee's matters. Members would have to recuse themselves from decisions on any matter in which they held an interest.

Grant award procedures. A Scientific Research and Prevention Programs Committee would review grant applications and would provide to the executive director a prioritized list ranking the order in which they recommended the applications should be funded. The executive director would submit to the Oversight Committee a list of grant applications substantially based on the recommendation of the Scientific Research and Prevention Programs Committee. The executive director's recommendation would, to the extent possible, give priority to proposals that met certain criteria established for funding proposals. The Oversight Committee would fund the grant applications in the order recommended by the executive director unless the committee overrode the recommendations by a two-thirds vote.

Requirements of grant recipients. The Oversight Committee would require grant recipients to submit to regular inspection and progress reviews according to a process determined by the executive director. The executive director could terminate grants that did not meet contractual obligations. The executive director would report at least annually to the Oversight Committee on the progress of funded research programs.

The bill would specify that indirect costs, for which grant recipients cannot spend more than 5 percent of their grant award, would refer to the expenses of doing business that were not readily identified with a particular grant, project, or contract but were necessary for the general operation of the organization. The bill would specify that not more than five percent of money awarded during any year could be used for facility

purchase, construction, remodel, or renovation, and any money awarded for these purposes would have to benefit cancer prevention and research.

Miscellaneous provisions. The Institute could supplement the salary of senior Institute staff members using gifts, grants, donations, or appropriations. Certain information pertaining to grant applicants and their proposals would be subject to public information requirements. The bill would require that certain members of the Oversight Committee be designated by December 1, 2009.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 1358 would revise the structure of the Cancer Prevention and Research Institute of Texas by providing greater flexibility for input from diverse expert resources and minimizing the potential for conflicts of interest. The Oversight Committee, which would cast the final vote on what grants would be awarded, would be able to form expert ad hoc committees to advise them on whatever matter they deemed necessary. The executive director also could appoint Scientific Research and Prevention Programs committees with diverse expertise to make recommendations about what grants should be funded. The revised structure that this bill would create would be similar to the flexible committee structure of the National Cancer Institute.

The bill would eliminate the role that representatives of institutions of higher education could play in influencing the decisions made about grant awards because these representatives unavoidably have conflicts of interest when their institutions could be the recipients of a grant. Conflicts of interest further would be prevented by the requirement that committee members disclose the interests they held in matters before their committee and recused themselves from decisions regarding matters in which they held an interest.

CSHB 1358 would not vest too much authority in the Institute's executive director. The executive director would be chosen by the Oversight Committee through an elaborate vetting process that ensured only the most highly qualified and professional candidate was chosen. The executive director's funding recommendations would be based on the recommendations of a committee of experts. The Oversight Committee

could vote to disregard the executive director's recommendations if they were not in the best interest of the Institute and the state. The executive director only could terminate a grant if it was determined that a recipient was not meeting contractual obligations, and the rule-making authority of the Oversight Board would ensure procedures could be established, if necessary, to review the grounds on which the executive director decided to terminate a grant.

**OPPONENTS
SAY:**

CSHB 1358 would vest too much authority in the Institute's executive director. Under this bill, the executive director would make the final recommendations for grant funding to the Oversight Committee, rather than a diverse, expert Scientific Research and Prevention Programs committee. Further, these recommendations would be based on the suggestions of a Scientific Research and Prevention Programs committee that the executive director had appointed, rather than the current structure under which the committee would be appointed by various officials to represent the geographic and cultural diversity of the state. Finally, the bill would not provide any check on the authority that it would grant to the executive director to terminate any grant that did not meet contractual obligations. Under these provisions, the executive director singularly would wield too much decision-making power in the use of up to \$300 million per year of funding that voters had approved with the expectation that these funds would be governed in a different way.

NOTES:

The companion bill, SB 895 by Nelson, has been referred to the Senate Health and Human Services Committee.