

SUBJECT: Establishing the Mental Health and Brain Research Institute of Texas

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Kuempel, Paul, Bucy, Burns, Clardy, Cole, González, Howard, Lalani

0 nays

2 absent — Burrows, Raney

WITNESSES: For — Joshua Shulman, Baylor College of Medicine and Texas Children’s Hospital; Kathleen Otto, BioNTX; Philip Horner, Houston Methodist Hospital; Andy Keller, Meadows Mental Health Policy Institute; Behnaam Aazhang, Rice University; Nadine Craddick (*Registered, but did not testify*: Kathy Green, AARP Texas; Jason Sabo, Children at Risk; Christina Hoppe, Children’s Hospital Association of Texas; Lindsey Adams, City of El Paso; Christine Bryan, Clarity Child Guidance Center; Ben Stratmann, Dallas Regional Chamber; Garry Jones, DFER Texas; Eric Woomer, Federation of Texas Psychiatry; Travis Krogman, Greater Austin Chamber of Commerce; Glen Austin, Greater Houston Partnership; Daniel Hodge, Houston Methodist Hospital; Nelda Hunter, Insightec Ltd.; Lindsay Lanagan, Legacy Community Health; Rebecca Fowler, Mental Health America of Greater Houston; Christine Yanas, Methodist Healthcare Ministries; Lyssette Galvan, NAMI Texas; Jennifer Rodriguez, North Texas Commission; Andrew Cates, Nurse Family Partnership; Gilbert Zavala, Opportunity Austin; Leticia Van de Putte, San Antonio Chamber of Commerce and Texas Academy of Physician Assistants; Maureen Milligan, Teaching Hospitals of Texas; Hailey McMahon, Texans Care for Children; Renzo Soto, Texas 2036; Deanna L. Kuykendall, Texas Alliance of Brain Injury Providers; Jessica Lynch, Texas Association of Health Plans; Megan Mauro, Texas Association of Business; Amanda Afifi, Texas Association of School Psychologists; Justin Yancy, Texas Business Leadership Council; Meredith Cooke, Texas Children’s Hospital; Seth Winick, Texas Coalition for Healthy Minds; Andrea Chevalier, Texas Council of Administrators of

Special Education (TCASE); Leela Rice, Texas Council of Community Centers; Danielle Lobsinger Bush, Texas Healthcare and Bioscience Institute; Cameron Duncan, Texas Hospital Association; Michelle Romero, Texas Medical Association; Jill Sutton, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Jennifer Allmon, Texas Catholic Conference of Bishops; Ashley Harris, United Ways of Texas; and six individuals)

Against — Lee Spiller, Citizens Commission on Human Rights; Judy Powell, Parent Guidance Center; Tracy Shannon (*Registered, but did not testify*: Ron Guidry and Kevin Whitt, Mass Resistance Texas; Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; Adam Cahn; Beverly Roberts)

On — Kristen Doyle, Cancer Prevention and Research Institute of Texas; Whitney Blanton, Texas Treasury Safekeeping Trust Company; Taiwo Babatope and Eric Boerwinkle, UTHealth Houston (*Registered, but did not testify*: Wayne Roberts, CPRIT; Clarisse Roquemore, Texas Comptroller of Public Accounts)

DIGEST:

CSHB 15 would amend the Education Code to establish the Mental Health and Brain Research Institute of Texas. Its purpose would be to create and expedite innovation in mental health and brain research to improve the health of residents in the state, award grants to eligible higher education institutions and public or private entities to attract, create, or expand research capabilities, and develop and implement a research plan to foster collaboration and investigation into mental and brain health research by such institutions and entities.

Powers and duties. The institute could make grants to institutions of learning, advanced medical research facilities, public and private persons, and collaborations in Texas. Such grants would be made to further the purposes of the institute, such as implementing the research plan, research into mental health and brain-related diseases, providing money for facilities, equipment, and other research costs, and prevention programs and strategies to mitigate the incidence of detrimental health impacts on

mental health or the brain.

The institute would be required to collaborate with relevant state agencies, coordinating councils, and consortiums to enhance mental health and brain-related health care and research. It could contract with another state agency to share the cost of administrative service.

CSHB 15 would require the institute to employ necessary staff and to establish appropriate standards and oversight measures to ensure authorized funding was properly used. The institute would be required to monitor grant contracts and ensure the recipients' compliance with the terms of the contracts as well as with all rules adopted under the provisions of the bill.

The institute would create a statewide research and clinical data registry for mental health and brain research.

It would be required to prepare and submit a report to the governor, lieutenant governor, the speaker of the house, and relevant committees no later than January 31 each year. The report would be posted on the institute's website and would outline:

- the institute's activities;
- a list of the preceding fiscal year's grant recipients and grant amounts;
- any research accomplishments achieved the preceding year by a grant recipient or recipient's partner;
- an overview of the institute's most recent audited financial statement;
- an assessment of the relationship between the institute's grants and its research program strategy;
- a statement of the institute's strategic research plans;
- an estimate of the financial cost to the state of mental health and brain disease for the most recent fiscal year;
- a statement of the institute's compliance program activities;
- a list of the institute's conflict of interest-related activities for the

- preceding fiscal year; and
- the institute's future direction.

CSHB 15 would require the institute to maintain complete records of grant application information, including each grant recipient's financial and progress reports, the institute's reviews of such reports, and the identities of each grant recipient's principal investor and owner. This information would have to be kept for at least 15 years after the date the record was issued. The institute would have to prepare periodic audits of any electronic grant management system used to maintain records of grant applications and awards.

The institute could solicit and accept gifts and grants from any source.

An employee of the institute could not have an office located in a facility owned by an entity receiving or applying for money from the institute.

Oversight committee, officers, and compliance program. CSHB 15 would establish the oversight committee as the governing body of the institute. The committee would have nine members serving staggered six-year terms, expiring on January 31 of odd-numbered years. Three members each would be appointed by the governor, lieutenant governor, and speaker of the house, and would have to represent the geographic and cultural diversity of the state. In making appointments, the governor, lieutenant governor, and speaker of the house would each appoint at least one physician or scientist with relevant experience and should attempt, if possible, to include appointees personally affected by mental health or brain disease or their family members or caregivers. A person with a financial interest impacted by the institute could not be appointed. The bill would establish criteria for the removal of an appointed member of the committee under certain circumstances. A vacant committee position would have to be filled no later than 30 days after the vacancy occurred.

The oversight committee would have to elect a presiding officer and assistant presiding officer from among its members every two years, with additional officers elected as needed. The presiding officer and assistant

presiding officer could not serve consecutive terms.

Oversight committee members would not be entitled to financial compensation but could be reimbursed for expenses incurred while working for the committee.

CSHB 15 would require the oversight committee to have a public meeting at least quarterly in a calendar year, with appropriate notice and a formal public comment period. The bill would establish procedures for conducting a closed meeting by the committee.

The oversight committee would be required to adopt a code of conduct for all committee members within the Mental Health and Brain Research Institute of Texas. This code of conduct would prohibit the members from various activities that could lead to inappropriate financial or other gains.

CSHB 15 would require the institute to annually commission an independent financial audit of its activities from a certified public accounting firm, to be reviewed by the oversight committee.

Members of the oversight committee would have to be appointed no later than December 1, 2024. The committee could not act until a majority of the appointees had taken office. The governor, lieutenant governor, and speaker of the house each would have to designate a member appointed by that person to serve a term expiring on January 31 of 2025, 2027, and 2029, respectively. The governor would designate one member to serve as interim presiding officer of the committee until the members could elect one themselves.

CSHB 15 would require the institute to employ a chief compliance officer and the oversight committee to hire a chief executive officer. The chief executive officer could hire any other officer position determined necessary.

The institute would establish a compliance program operated under the direction of the chief compliance officer to monitor compliance with the

rules adopted under the provisions of the bill.

The chief compliance officer would be required to attend and observe meetings of the other committees established by the bill to ensure compliance. The chief compliance officer would have to submit a written report to the oversight committee confirming the compliance of each grant application recommendation. This report would have to contain information on the peer review process for a grant application, the application's peer review score, adherence to the conflict-of-interest notification and recusal process, and confirmation that a grant applicant recommended for approval did not make a prohibited gift or grant. The chief compliance officer would monitor the status of any required report that a grant recipient did not submit on time and notify the general counsel of the institute and the oversight committee of a non-compliant grant recipient.

The chief compliance officer would have to establish procedures for the investigation of fraud, waste, and abuse of state resources, which would include private access to the compliance program office and, to the extent possible, maintain the confidentiality of the identity and communications of a person who submitted a compliance report or who participated in a compliance investigation. Each oversight committee member would have to file a verified financial statement with the chief compliance officer.

Other committees. The oversight committee would be required to establish the peer review committee. The chief executive officer of the oversight committee, with approval by a simple majority of oversight committee members, would appoint as members of the peer review committee experts in fields related to mental health or the brain. The oversight committee would adopt policies and rules for membership requirements and term lengths of the peer review committee. Members of the peer review committee could receive an honorarium and could be reimbursed for costs incurred while conducting committee business.

The bill also would require the institute to establish a program integration committee. The program integration committee would include the

institute's chief executive officer, three senior-level institute employees as appointed by the chief executive officer, and the executive commissioner of the Health and Human Services Commission or a designee.

CSHB 15 would establish the higher education advisory committee to advise the oversight committee on the role of higher education and other issues and opportunities pertaining to mental health or brain research. The higher education advisory commission would have 16 members, each selected by the president or dean of a listed institution of higher education. The oversight committee could increase the membership to include appointees from other institutions.

The bill would allow the oversight committee to create additional ad hoc advisory committees of experts as needed. Members of the higher education advisory committee or any ad hoc advisory committee would not receive compensation but could be reimbursed for costs incurred from conducting committee business.

Mental Health and Brain Institute research fund. CSHB 15 would establish the Mental Health and Brain Institute Research Fund as a special fund in the treasury outside the general revenue fund to be administered by the institute. The fund would consist of transferred, appropriated, and credited money; patent, royalty, and license fees; income received under a contract; and investment earnings and interest. The fund would only be used for the award of grants, relevant purchases, and the operation of the institute.

The bill would require the Texas Treasury Safekeeping Trust Company to hold and invest the fund and any accounts established in the fund for the institute, with the aim of maintaining sufficient liquidity and purchasing power of the fund. The trust company would annually be required to provide a written report to the institute and oversight committee about the investments of the fund. The institute would provide the trust company with a forecast of cash flows into and out of the fund. The trust company would disburse money from the fund as directed by the institute on a semiannual schedule and not more frequently than twice in a fiscal year.

CSHB 15 would authorize certain appropriate uses of awarded grant money by grant recipients, including research, salaries and benefits, travel, contracted research and development, and reimbursement of brain cancer clinical trial patients. The bill would limit the amount of grant money that a recipient could spend on indirect costs, facility costs, and prevention projects and strategies.

Grant awarding procedures. CSHB 15 would require the institute to use a peer review process to evaluate and recommend all grants awarded by the oversight committee. The oversight committee would adopt rules for grant awarding procedures that required:

- the peer review committee to score grant applications and make recommendations to the program integration and oversight committees regarding the award of grants; and
- the program integration committee to submit to the oversight committee a list of grant applications approved for recommendation by majority vote.

The recommendations for grant awards by the program integration committee would be required to include documentation on factors considered, be substantially based on the list submitted by the peer review committee, and, to the extent possible, give priority to proposals that could lead to medical and scientific breakthroughs, ensure a comprehensive coordinated approach to mental health and brain research, and benefit the residents of the state, among other criteria.

The bill would prohibit peer review committee members from attempting to use their position to influence a decision regarding a grant or contract to the member's employer. Under certain circumstances, a program integration committee member would be prohibited from discussing a grant applicant recommendation with an oversight committee member. Two-thirds of the oversight committee members present and voting would be required to vote to approve each funding recommendation of the program integration committee. The oversight committee would be

prohibited from awarding more than \$300 million in grants in a fiscal year and from awarding a grant to an applicant who had made a gift or grant to the institute or relevant committee member on or after the effective date of the bill.

The oversight committee could approve a grant for a multiyear project and would be required to specify the total amount of money approved to fund the project. For multiyear project grants, the institute could distribute only the money that would be expended in that fiscal year and would be required to distribute the remaining grant money as it was needed in subsequent fiscal years.

Contracts. CSHB 15 would require the institute to execute a written contract with a grant recipient before disbursing any grant money. A contract would specify that, except for awards to state agencies or public institutions of higher education, any grant money used to build a capital improvement would result in the state retaining a lien or other interest in the capital improvement and that the grant recipient would appropriately reimburse the state if the capital improvement was sold. The bill would require a contract to specify that a grant recipient who had not used awarded money for the intended purposes of the grant would be required to repay the grant amount and related interest. The contract could be terminated by the institute if the terms and conditions were not met by the grant recipient. A contract would require that certain matching funds be made by the grant recipient, include intellectual property terms consistent with the standard developed by the oversight committee, and specify the project deliverable along with the period in which the grant must be spent.

The bill would require a grant recipient to certify that the recipient had an amount of money equal to half the available grant money not yet expended. The recipient would dedicate that money to the research that was the subject of the grant proposal. A contract would require the grant recipient to dedicate matching money equal to half the amount of the awarded grant and specify the amount. The institute would be required to adopt rules specifying a grant recipient's obligations. The rules would allow a recipient that was an institution of higher learning to credit certain

money toward the recipient's matching money requirement, specify that federal and state funds could be used for certification purposes, and require that the grant recipient's certification was included in the grant award contract, among other criteria.

The institute also would be required to establish a policy on advance payments to grant recipients.

Patent royalties and license revenues. CSHB 15 would require the oversight committee to establish standards for all grant awards to be subject to an intellectual property agreement that would allow that state to collect royalty income and other benefits as a result of grant-awarded projects. The oversight committee would be required to balance the potential benefit to the state with the need to ensure that essential medical research was not unreasonably hindered by the intellectual property agreement. The oversight committee could authorize the institute to enter into a contract with one or more third parties to assist with the management, accounting, and disposition of the state's interest in securities, equities, royalties, income, and other benefits.

Public and confidential information. CSHB 15 would require that the applicant's name and address, the amount of money requested in the grant proposal, the type of mental health or brain research to be addressed by the proposal, and any other information designated by the institute be considered public information and open to disclosure. The bill would require that certain information be considered confidential including;

- information that directly or indirectly revealed the identity of an individual who made a fraud, waste, or abuse report to the compliance program office, individuals who sought guidance from the office, or anyone who participated in an investigation by the compliance program;
- information that directly or indirectly revealed the identity of an individual who was alleged to have or could have planned, initiated, or participated in activities that would be the subject of a report if the compliance program office determined the report to be

- unsubstantiated or without merit; and
- any other information collected or produced in a compliance program investigation if releasing it would interfere with an ongoing compliance investigation.

Confidential information would also include all information contained in any grant award application, peer review evaluation, award contract, or progress report relating to the use of a product, device, or process developed wholly or partly by a grant applicant or recipient that could be sold, traded, or licensed for a fee. Additionally, the plans, specifications, blueprints, and designs, including proprietary information, of a scientific research and development facility would be confidential and not subject to disclosure. The bill would allow for confidential information to be made available on request to a law enforcement agency or prosecutor, a governmental agency responsible for an investigation, or a committee member or institute employee responsible for a compliance program investigation or review. The institute also would be required to post on its website records of any gift, grant, or other consideration given to the institute, employee, or oversight committee member in the employee's or member's official capacity. The posted information would include each donor's name and the amount and date of the donation.

The oversight committee would be required to establish standards to ensure that grant recipients purchased goods and services from Texas suppliers and historically underutilized businesses.

The bill would require grant recipients to submit regular inspection reviews of the grant project completed by institute staff to ensure contract compliance and progress. The chief executive officer would report at least annually to the oversight committee on the progress and merit of grant-awarded projects. Any such project would be required to comply with all applicable federal and state laws regarding medical and research ethics.

The institute would be required to implement the provisions of the bill only if the Legislature appropriated money specifically for that purpose. The institute could implement any provisions using other money available

for that purpose.

Conflict of interest procedures. CSHB 15 would require the oversight committee to adopt conflict-of-interest rules to govern institute employees and members of each committee within the institute. Employees or committee members would be required to recuse themselves if they or a closely related person had a professional or financial interest in an entity receiving or applying to receive money from the institute. The bill would define circumstances by which a professional or financial conflict of interest would be constituted. The oversight committee could adopt additional conflict-of-interest standards if deemed necessary.

CSHB 15 would require an institute employee or a member of any institute committee with a conflict of interest to provide written notice to the chief executive officer and, in some cases, the presiding officer of the oversight committee. The next ranking member of the oversight committee would be notified if the presiding officer has a conflict of interest. In some cases, the member also would be required to disclose the conflict of interest in an open meeting of the oversight committee and recuse himself or herself from participating in any activity relating to a grant application. An employee or member who reported a conflict of interest and fully complied with necessary recommendations and requirements would be considered to be in compliance. An employee or committee member who knowingly violated these provisions would be subject to removal from further participation in the institute's grant review process.

Any institute employee or committee member with a conflict of interest could seek a waiver. The bill would require the oversight committee to adopt rules governing conflict-of-interest waivers, with certain requirements.

The bill would require an institute employee or committee member to immediately notify the chief executive officer of an unreported potential conflict of interest. The chief executive officer would then notify the presiding officer of the oversight committee and the general counsel, who

would determine the nature and extent of any unreported conflict of interest. The bill would allow a grant applicant to file a written request with the chief executive officer to seek an investigation regarding whether such a conflict of interest was reported. The institute's general counsel would be required to investigate potential conflicts of interest and provide an opinion. If the opinion determined that a conflict of interest existed, the chief executive officer, or presiding officer of the oversight committee as needed, would be required to take necessary action regarding the recusal of the individual in question. A final determination of an unreported conflict of interest would be made by the chief executive officer or, if needed, the presiding officer of the oversight committee, with certain requirements.

Other provisions. CSHB 15 would make conforming changes to include the Mental Health and Brain Research Institute of Texas in relevant sections of the Education Code.

The bill would make the institute eligible to receive \$3 billion in funding upon the approval by the voters of the proposed constitutional amendment that would require the creation of the Mental Health and Brain Research Institute of Texas.

The bill would take effect January 1, 2024, only if the proposed constitutional amendment requiring the creation of the Mental Health and Brain Research Institute of Texas, establishing the Mental Health and Brain Research Fund, and transferring general revenue to that fund was approved by the voters.

**SUPPORTERS
SAY:**

CSHB 15, in combination with CSJHR 135, would encourage major investment in research to cure and treat mental health and brain diseases in Texas. Vulnerable populations in the state, such as veterans and the elderly, would benefit from increased access to high-quality treatments and procedures. Stable research funding also could benefit the Texas economy by drawing additional private-sector investment and trained healthcare professionals to the state. By requiring the appointment of persons with direct experience with mental health and brain disease

conditions, the institute would be governed by people with a deep understanding of its purpose. The accountability and transparency measures set forth in the bill and resolution would be based on the existing guidelines used by the Cancer Prevention and Research Institute of Texas, which would prescribe reliable conflict of interest and peer review procedures. Additionally, the Mental Health and Brain Research Institute of Texas would comply with all federal and state medical ethics laws.

CRITICS
SAY:

More of the appointed governing and decision-making positions established in CSHB 15 should be filled by people with first-hand personal experience with mental health and brain disease issues. While it is important to improve care for people suffering from mental health and brain diseases, CSHB 15 could need stronger withdrawal and informed consent measures for potential treatments to ensure the safety and liberty of vulnerable patients. The bill lacks sufficient transparency for some of its conflict-of-interest notification, recusal, and waiver provisions. The \$3 billion funding is significant and could be better spent given directly to Texans.

NOTES:

According to the Legislative Budget Board, there would be no cost within the biennium for the implementation of CSHB 15. The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.