

BILL ANALYSIS

Senate Research Center
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S.B. 149
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas voters overwhelmingly approved a constitutional amendment in 2007 to establish the Cancer Prevention and Research Institute of Texas (CPRIT) and authorized the state to issue bonds to fund groundbreaking cancer research and prevention programs and services in Texas.

This bill clarifies and strengthens conflict of interest provisions at CPRIT to ensure that all policies and regulations are strictly adhered to in order to allow CPRIT to focus on its goal of cancer research and prevention.

As proposed, S.B. 149 amends current law relating to the Cancer Prevention and Research Institute of Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.051, Health and Safety Code, by adding Subsection (c), as follows:

(c) Requires the Cancer Prevention and Research Institute of Texas (CPRIT) to employ a compliance officer, who, under the direction of the executive director of CPRIT (executive director), is required to ensure that:

- (1) all grant proposals comply with this chapter and with rules adopted under this chapter before being submitted to the CPRIT Oversight Committee (oversight committee) for approval; and
- (2) CPRIT and its employees and its committee members appointed under this chapter comply with all laws and rules governing the peer review process and conflicts of interest.

SECTION 2. Amends Section 102.052(a), Health and Safety Code, to add a statement of CPRIT's compliance program activities, including any proposed legislation or other recommendations identified through the activities, to certain information required to be included in an annual public report required to be issued by CPRIT outlining CPRIT's activities, grants awarded, grants in progress, research accomplishments, and future program directions.

SECTION 3. Amends Subchapter B, Chapter 102, Health and Safety Code, by adding Section 102.057, as follows:

Sec. 102.057. PROHIBITED OFFICE LOCATION. Prohibits a CPRIT employee from having an office in a facility owned by an entity receiving or applying to receive money from CPRIT.

SECTION 4. Amends Section 102.107, Health and Safety Code, as follows:

Sec. 102.107. POWERS AND DUTIES. Requires the oversight committee to:

- (1) hire an executive director;
- (2) annually set priorities for each grant program and each category of funded research that receives money under this chapter; and
- (3) consider the priorities set under Subdivision (2) in awarding grants under this chapter.

SECTION 5. Amends Section 102.156, Health and Safety Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires a member of a research and prevention programs committee, the university advisory committee, or any ad hoc committee appointed under this subchapter to disclose in writing to the executive director if the member has a professional or a substantial financial interest in an entity that has a direct interest in a matter that comes before the member's committee, rather than if the member has an interest in a matter that comes before the member's committee or has a substantial financial interest in an entity that has a direct interest in the matter.

(d) Provides that a person has a professional interest in an entity receiving or applying to receive money from CPRIT if the person:

- (1) is a member of the board of directors, other governing board, or any committee of the entity during the same grant cycle;
- (2) serves as an elected or appointed officer of the entity;
- (3) is an employee of or is negotiating future employment with the entity;
- (4) represents the entity;
- (5) is a professional associate of a primary member of the entity's research or prevention program applicant's team;
- (6) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program applicant's team;
- (7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program applicant's team; or
- (8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program applicant's team, and those differences are known to the professional community and could be perceived as affecting objectivity.

SECTION 6. Amends Subchapter D, Chapter 102, Health and Safety Code, by adding Section 102.157, as follows:

Sec. 102.157. CONFLICT OF INTEREST: WAIVER. (a) Authorizes the executive director to expressly waive the recusal requirement and participation prohibition of Section 102.156(b) (relating to the recusal requirement of a member) if the executive director determines that it would be difficult or impractical to carry out necessary action without the waiver, the need for the participation of the member outweighs the member's potential bias, and the waiver is in the best interest of CPRIT and would not impair the integrity of the deliberation, action, or decision.

(b) Requires the executive director to maintain a written record of each waiver and the reasons for it.

SECTION 7. Amends Subchapter F, Chapter 102, Health and Safety Code, by adding Section 102.263, as follows:

Sec. 102.263. COMPLIANCE PROGRAM. (a) Defines "compliance program" in this section.

(b) Requires CPRIT to establish a compliance program that operates under the direction of CPRIT's compliance officer. Authorizes CPRIT to establish procedures, such as a telephone hotline, to allow private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

(c) Provides that information that directly or indirectly reveals the identity of an individual who made a report to CPRIT's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program and information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit, are confidential.

(d) Provides that Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e) Provides that information is excepted from disclosure under Chapter 552 (Public Information), Government Code, if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

(f) Authorizes information made confidential or excepted from public disclosure by this section to be made available to the following on request in compliance with applicable law and procedure:

(1) a law enforcement agency or prosecutor;

(2) a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or

(3) a committee member or employee of CPRIT who is responsible under CPRIT policy for a compliance program investigation or for a review of a compliance program investigation.

(g) Provides that a disclosure under Subsection (f) is not a voluntary disclosure for purposes of Section 552.007 (Voluntary Disclosure of Certain Information When Disclosure Not Required), Government Code.

SECTION 8. (a) Requires the oversight committee to employ a compliance officer as required by Section 102.051(c), Health and Safety Code, as added by this Act, not later than December 1, 2013.

(b) Requires the oversight committee to establish a compliance program as required by Section 102.263, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 9. Effective date: upon passage or September 1, 2013.