

By: Thompson

H.B. No. 2469

A BILL TO BE ENTITLED

AN ACT

relating to research using human cells and tissues.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 168 to read as follows:

CHAPTER 168. TEXAS INSTITUTE FOR REGENERATIVE MEDICINE

Sec. 168.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Independent Citizens' Oversight Committee established by Section 168.002.

(2) "Financial accountability oversight committee" means the financial accountability oversight committee established by Section 168.009.

(3) "Institute" means the Texas Institute for Regenerative Medicine established by Section 73, Article XVI, Texas Constitution.

Sec. 168.002. INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE.

(a) The committee is the governing body of the institute.

(b) The committee is composed of nine members appointed as follows:

(1) one member appointed by the chancellor of The University of Texas System to represent:

(A) The University of Texas Medical Branch at Galveston;

(B) The University of Texas at San Antonio;

1                   (C) The University of Texas at Dallas; or  
2                   (D) The University of Texas Health Science  
3 Center;

4                   (2) one member appointed by the governor to represent:

- 5                   (A) The Texas A&M University System;  
6                   (B) the Texas Tech University System;  
7                   (C) the University of Houston System;  
8                   (D) the Texas State University System; or  
9                   (E) the University of North Texas System;

10                  (3) two members appointed by the governor, one of whom  
11 must be selected from a list submitted by the speaker of the house  
12 of representatives, one member appointed by the lieutenant  
13 governor, and one member appointed by the comptroller from any of  
14 the following categories:

15                   (A) a representative of a university in this  
16 state other than the universities listed in Subdivisions (1) and  
17 (2) that has demonstrated success and leadership in regenerative  
18 medical research and that has:

19                   (i) a research hospital and medical school;  
20                   (ii) a recent proven history of  
21 administering scientific or medical research grants or contracts in  
22 an average annual range of more than \$20 million; and

23                   (iii) a ranking, in the past five years, in  
24 the top 50 universities in the United States with the highest number  
25 of life science patents or that has research or clinical faculty who  
26 are members of the National Academy of Sciences;

27                   (B) a representative from a nonprofit academic

1 and research institution in this state that is not a part of The  
2 University of Texas System that has:

3 (i) demonstrated success and leadership in  
4 stem cell research; and

5 (ii) a nationally ranked research hospital  
6 or research or clinical faculty who are members of the National  
7 Academy of Sciences;

8 (C) a resident of this state who has a background  
9 in medical ethics; and

10 (D) a resident of this state with a background in  
11 finance; and

12 (4) two members appointed by the governor, one of whom  
13 must be selected from a list submitted by the speaker of the house  
14 of representatives, and one member appointed by the lieutenant  
15 governor to represent a disease advocacy group, which may include  
16 an advocacy group for any of the following diseases:

17 (A) spinal cord injury;

18 (B) Alzheimer's disease;

19 (C) diabetes;

20 (D) multiple sclerosis;

21 (E) amyotrophic lateral sclerosis;

22 (F) HIV or AIDS;

23 (G) mental health diseases;

24 (H) heart disease;

25 (I) cancer; or

26 (J) Parkinson's disease.

27 Sec. 168.003. OFFICERS. (a) The committee shall elect from

1 among its members a presiding officer and an assistant presiding  
2 officer.

3 (b) The officers serve a term of three years and shall be  
4 part-time or full-time employees of the institute.

5 (c) The presiding officer:

6 (1) must have been appointed under Section 168.002(3)  
7 or (4) and have the following qualifications:

8 (A) documented history in successful stem cell  
9 research advocacy; and

10 (B) experience with state and federal  
11 legislative processes, including experience with medical  
12 legislative approvals of standards or funding; and

13 (2) may not concurrently be employed by or on leave  
14 from an institution that seeks or receives state grants or loans.

15 (d) In electing a presiding officer the committee may also  
16 consider:

17 (1) executive experience with governmental agencies  
18 or institutions;

19 (2) experience with the process of establishing  
20 government standards and procedures;

21 (3) experience with the legal review of proper  
22 governmental authority for the exercise of government agency or  
23 government institutional powers; and

24 (4) direct knowledge and experience in bond financing.

25 (e) The assistant presiding officer must:

26 (1) meet the requirements of Subsections (c)(1)(A) and  
27 (2); and

1           (2) have attributes and experience complementary to  
2 those of the presiding officer, preferably meeting criteria not met  
3 by the presiding officer's credentials and experience.

4           Sec. 168.004. TERMS. (a) Committee members serve  
5 staggered six-year terms, with as near as possible to one-third of  
6 the members' terms expiring on February 1 of each odd-numbered  
7 year.

8           (b) A committee member may not serve more than one term.

9           (c) If a vacancy occurs on the committee during a term, the  
10 appointing authority shall appoint a successor to serve for the  
11 unexpired portion of the term not later than 30 days after the  
12 vacancy occurs.

13           (d) On the expiration of a committee member's term, the  
14 appointing authority must make a replacement appointment not later  
15 than 30 days after the date that a term expires. The member whose  
16 term expires continues to serve on the committee until a  
17 replacement is made.

18           Sec. 168.005. POWERS AND DUTIES. The institute has the  
19 powers conferred under Section 73, Article XVI, Texas Constitution.

20           Sec. 168.006. STEM CELL RESEARCH ACCOUNT. The stem cell  
21 research account is an account in the general revenue fund. The  
22 account may be used only as provided by Section 73, Article XVI,  
23 Texas Constitution.

24           Sec. 168.007. ANNUAL PUBLIC REPORT. The institute shall  
25 issue an annual public report outlining the institute's activities,  
26 grants awarded, grants in progress, research accomplishments, and  
27 future program directions. The report should include:

1           (1) the number and dollar amounts of research and  
2 facilities grants;

3           (2) identification of the grantees for the reported  
4 year;

5           (3) the institute's administrative expenses;

6           (4) an assessment of the availability of funding for  
7 stem cell research from sources other than the institute;

8           (5) a summary of research findings, including  
9 promising new research areas;

10          (6) an assessment of the relationship between the  
11 institute's grants and the overall strategy of its research  
12 program; and

13          (7) a report of the institute's strategic research and  
14 financial plans.

15          Sec. 168.008. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY  
16 COMPTROLLER. The institute shall annually commission an  
17 independent financial audit of its activities from a certified  
18 public accounting firm that shall be provided to the comptroller,  
19 who shall review the audit and annually issue a public report of  
20 that review.

21          Sec. 168.009. FINANCIAL ACCOUNTABILITY OVERSIGHT  
22 COMMITTEE. (a) The comptroller shall be the presiding officer of a  
23 financial accountability oversight committee that:

24           (1) reviews the annual financial audit, the  
25 comptroller's report and evaluation of that audit, and the  
26 financial practices of the institute; and

27           (2) provides recommendations on the institute's

1 financial practices and performance.

2 (b) The governor shall appoint one public member of the  
3 financial accountability oversight committee from a list submitted  
4 by the speaker of the house of representatives. The lieutenant  
5 governor, the comptroller, and the presiding officer of the  
6 committee shall each appoint a public member of the financial  
7 accountability oversight committee. Financial accountability  
8 oversight committee members must have medical backgrounds and  
9 knowledge of relevant financial matters.

10 (c) The comptroller shall provide staff support for the  
11 financial accountability oversight committee.

12 (d) The financial accountability oversight committee shall  
13 hold an annual public meeting, with appropriate notice and with a  
14 formal public comment period. The committee shall evaluate public  
15 comments and include appropriate summaries in its annual report.

16 (e) The committee shall provide funds for the per diem  
17 expenses of the financial accountability oversight committee  
18 members and for publication of the annual report.

19 SECTION 2. Subtitle H, Title 2, Health and Safety Code, is  
20 amended by adding Chapter 169 to read as follows:

21 CHAPTER 169. RESEARCH USING HUMAN CELLS AND TISSUE

22 Sec. 169.001. USE OF HUMAN CELLS PERMITTED. (a) A person  
23 may conduct research involving the derivation and use of human  
24 embryonic stem cells, human embryonic germ cells, and human adult  
25 stem cells, including somatic cell nuclear transplantation.

26 (b) The research authorized by this section:

27 (1) must be conducted with full consideration for the

1 ethical and medical implications of the research; and

2 (2) must be reviewed by an institutional review board.

3 Sec. 169.002. DUTY OF HEALTH CARE PROVIDER. A physician or  
4 other health care provider who is delivering fertility treatment  
5 shall provide the patient with timely, relevant, and appropriate  
6 information sufficient to allow the patient to make an informed and  
7 voluntary choice regarding the disposition of any human embryos  
8 remaining following the infertility treatment in accordance with  
9 Section 169.003.

10 Sec. 169.003. PATIENT OPTIONS. (a) The information given  
11 to the patient under Section 169.002 must inform the patient of the  
12 patient's options to:

13 (1) store any unused embryos;

14 (2) donate the unused embryos to another person for  
15 use;

16 (3) discard the unused embryos; or

17 (4) donate the unused embryos for research purposes.

18 (b) A patient who donates, for research purposes, embryos  
19 remaining after infertility treatment must consent in writing to  
20 the donation.

21 SECTION 3. Section 48.02(c), Penal Code, is amended to read  
22 as follows:

23 (c) It is an exception to the application of this section  
24 that the valuable consideration is: (1) a fee paid to a physician or  
25 to other medical personnel for services rendered in the usual  
26 course of medical practice or a fee paid for hospital or other  
27 clinical services; (2) reimbursement of legal or medical expenses



1 incurred for the benefit of the ultimate receiver of the organ; (3)  
2 reasonable payment for removal, processing, disposal,  
3 preservation, quality control, storage, transplantation, or  
4 implantation of embryonic or cadaveric fetal tissue for research  
5 conducted in compliance with Chapter 169, Health and Safety Code;  
6 or (4) ~~[(3)]~~ reimbursement of expenses of travel, housing, and  
7 lost wages incurred by the donor of a human organ in connection with  
8 the donation of the organ.

9 SECTION 4. (a) Subject to Section 6(b) of this Act, not  
10 later than December 1, 2005, the chancellor of The University of  
11 Texas System, the governor, the lieutenant governor, and the  
12 comptroller of public accounts shall appoint members to the  
13 Independent Citizens' Oversight Committee as required by Section  
14 168.002, Health and Safety Code, as added by this Act.

15 (b) Subject to Section 6(b) of this Act, not later than  
16 January 1, 2006, the members of the Independent Citizens' Oversight  
17 Committee shall elect a presiding officer and assistant presiding  
18 officer as required by Section 168.003, Health and Safety Code, as  
19 added by this Act.

20 SECTION 5. (a) The change in law made by this Act to Section  
21 48.02(c), Penal Code, applies only to an offense committed on or  
22 after the effective date of this Act. For purposes of this section,  
23 an offense is committed before the effective date of this Act if any  
24 element of the offense occurs before that date.

25 (b) An offense committed before the effective date of this  
26 Act is covered by the law in effect when the offense was committed,  
27 and the former law is continued in effect for that purpose.

1           SECTION 6. (a) Except as provided by Subsection (b), this  
2 Act takes effect September 1, 2005.

3           (b) Section 1 of this Act takes effect on the date on which  
4 the constitutional amendment proposed by the 79th Legislature,  
5 Regular Session, 2005, establishing the Texas Institute for  
6 Regenerative Medicine and prohibiting the legislature from  
7 prohibiting stem cell research is approved by the voters. If that  
8 amendment is not approved by the voters, Section 1 of this Act has  
9 no effect.