

BILL ANALYSIS

Senate Research Center

S.B. 149
By: Nelson et al.
Health & Human Services
7/16/2013
Enrolled

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.

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Cancer Prevention and Research Institute of Texas in SECTION 7 (Section 102.0535, Health and Safety Code) and SECTION 24 (Section 102.255, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Cancer Prevention and Research Institute of Texas Oversight Committee (oversight committee) is modified in SECTION 14 (Section 102.106, Health and Safety Code) and SECTION 22 (Section 102.251, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the oversight committee in SECTION 15 (Section 102.1062, Health and Safety Code), SECTION 18 (Section 102.151, Health and Safety Code), and SECTION 30 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 102.001, Health and Safety Code, by adding Subdivision (2-a) to define "program integration committee" and amending Subdivision (3) to redefine "research and prevention programs committee."

SECTION 2. Amends Subchapter A, Chapter 102, Health and Safety Code, by adding Section 102.004, as follows:

Sec. 102.004. STATE AUDITOR. Provides that nothing in this chapter limits the authority of the state auditor under Chapter 321 (State Auditor), Government Code, or other law.

SECTION 3. Amends Section 102.051, Health and Safety Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that the Cancer Prevention and Research Institute of Texas (CPRIT):

(1) is authorized to make grants to provide funds to public or private persons to implement the Texas Cancer Plan, and may make grants to institutions of learning and to advanced medical research facilities and collaborations in this state for certain purposes;

(2) is authorized to support institutions of learning and advanced medical research facilities and collaborations in this state in all stages in the process of finding the causes of all types of cancer in humans and developing cures, from laboratory research to clinical trials and including programs to address the problem of access to advanced cancer treatment;

(3) is authorized to establish the appropriate standards and oversight bodies to ensure the proper use of funds authorized under this chapter for cancer research and facilities development;

(4) is authorized to employ necessary staff to provide administrative support, rather than employ an executive director as determined by the CPRIT Oversight Committee (oversight committee);

(5) is required to continuously monitor contracts and agreements authorized by this chapter and ensure that each grant recipient complies with the terms and conditions of the grant contract;

(6) is required to ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and

(7) is required to establish procedures to document that CPRIT, 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.

Makes nonsubstantive changes.

(c) Requires CPRIT to employ a chief compliance officer to monitor and report to the oversight committee regarding compliance with this chapter and rules adopted under this chapter.

(d) Requires the chief compliance officer to:

(1) ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and

(2) attend and observe the meetings of the program integration committee to ensure compliance with this chapter and rules adopted under this chapter.

SECTION 4. Amends Subchapter B, Chapter 102, Health and Safety Code, by adding Section 102.0511, as follows:

Sec. 102.0511. CHIEF EXECUTIVE OFFICER; OTHER OFFICERS. (a) Requires the oversight committee to hire a chief executive officer. Requires the chief executive officer to perform the duties required by this chapter or designated by the oversight committee.

(b) Requires the chief executive officer to have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(c) Requires the chief executive officer to hire:

(1) one chief scientific officer;

(2) one chief operating officer;

(3) one chief product development officer; and

(4) one chief prevention officer.

(d) Requires the officers described by Subsections (c)(1)-(4) to report directly to the chief executive officer and assist the chief executive officer in collaborative outreach to further cancer research and prevention.

SECTION 5. Amends the heading to Section 102.052, Health and Safety Code, to read as follows:

Sec. 102.052. ANNUAL PUBLIC REPORT; INTERNET POSTING.

SECTION 6. Amends Section 102.052, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires CPRIT, not later than January 31 of each year, to submit to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over CPRIT matters and post on CPRIT's Internet website a report outlining CPRIT's activities, grants awarded, grants in progress, research accomplishments, and future program directions, rather than requiring CPRIT to issue an annual public report outlining CPRIT's activities, grants awarded, grants in progress, research accomplishments, and future program directions. Requires that the report include:

(1)-(8) Makes no change to these subdivisions;

(9) a statement of CPRIT's compliance program activities, including any proposed legislation or other recommendations identified through the activities; and

(10) for the previous 12 months, a list of any conflicts of interest under this chapter or rules adopted under this chapter, any conflicts of interest that require recusal under Section 102.1061, any unreported conflicts of interest confirmed by an investigation conducted under Section 102.1063, including any actions taken by CPRIT regarding an unreported conflict of interest and subsequent investigation, and any waivers granted through the process established under Section 102.1062.

(c) Requires CPRIT to post on CPRIT's Internet website the list described by Subsection (a)(10).

SECTION 7. Amends Subchapter B, Chapter 102, Health and Safety Code, by adding Section 102.0535, as follows:

Sec. 102.0535. GRANT RECORDS. (a) Requires CPRIT to maintain complete records of:

(1) the review of each grant application submitted to CPRIT, including the score assigned to each grant application reviewed by a research and prevention programs committee in accordance with rules adopted under Section 102.251(a)(1), even if the grant application is not funded by CPRIT or is withdrawn after submission to CPRIT;

(2) each grant recipient's financial reports, including the amount of matching funds dedicated to the research specified for the grant award;

(3) each grant recipient's progress reports;

(4) for the purpose of determining any conflict of interest, the identity of each principal investor and owner of each grant recipient as provided by CPRIT rules; and

(5) CPRIT's review of the grant recipient's financial reports and progress reports.

(b) Requires CPRIT to have periodic audits made of any electronic grant management system used to maintain records of grant applications and grant awards under this section. Requires CPRIT to address in a timely manner each weakness identified in an audit of the system.

SECTION 8. Amends Section 102.056, Health and Safety Code, as follows:

Sec. 102.056. SALARY. (a) Prohibits CPRIT from supplementing the salary of any CPRIT employee with a gift or grant received by CPRIT.

(b) Creates this subsection from existing text. Authorizes CPRIT to supplement the salary of the chief scientific officer, rather than supplement the salary of the executive director and other senior CPRIT members. Authorizes funding for a salary supplement for the chief scientific officer to only come from legislative appropriations or bond proceeds, rather than authorizing funding for a salary supplement to come from gifts, grants, donations, or appropriations.

(c) Prohibits CPRIT from supplementing the salary of the chief executive officer. Authorizes the salary of the chief executive officer to only be paid from legislative appropriations.

SECTION 9. 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 10. Amends Section 102.101, Health and Safety Code, by amending Subsections (b), (d), and (e) and adding Subsection (f), as follows:

(b) Provides that the oversight committee is composed of a certain nine, rather than 11, members. Deletes existing text providing that the oversight committee includes the comptroller or the comptroller's designee, and the attorney general or the attorney general's designee. Makes nonsubstantive changes.

(d) Provides that, in making appointments to the oversight committee, the governor, lieutenant governor, and speaker of the house of representatives are required to each appoint at least one person who is a physician or a scientist with extensive experience in the field of oncology or public health and should attempt to include cancer survivors and family members of cancer patients if possible.

(e) Prohibits a person from being a member of the oversight committee if the person or the person's spouse owns or controls, directly, or indirectly, an interest in a business entity or other organization receiving money from CPRIT, rather than owns or controls, directly or indirectly, more than a five percent interest in a business entity or other organization receiving money from CPRIT, among certain other prohibited activity.

(f) Requires a person appointed to the oversight committee to disclose to CPRIT each political contribution to a candidate for a state or federal office over \$1,000 made by the person in the five years preceding the person's appointment and each year after the person's appointment until the person's term expires. Requires CPRIT annually to post a report of the political contributions made by oversight committee members on CPRIT's publicly accessible Internet website and post a link to the report on the oversight committee's main Internet web page.

SECTION 11. Amends Section 102.102(c), Health and Safety Code, to make conforming changes.

SECTION 12. Amends Section 102.103(a), Health and Safety Code, to provide that oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing office for staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

SECTION 13. Amends Section 102.104, Health and Safety Code, as follows:

Sec. 102.104. OFFICERS. (a) Creates this subsection from existing text. Requires the oversight committee to elect, rather than select, a presiding officer and assistant presiding officer from among its members every two years. Authorizes the oversight committee to elect additional officers from among its members.

(b) Prohibits the presiding officer and assistant presiding officer from serving in the position to which the officer was elected for two consecutive terms.

(c) Requires the oversight committee to:

(1) establish and approve duties and responsibilities for officers of the committee; and

(2) develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the chief executive officer and the employees of CPRIT.

SECTION 14. Amends Section 102.106, Health and Safety Code, as follows:

Sec. 102.106. CONFLICT OF INTEREST. (a) Creates this subsection from existing text. Requires the oversight committee to adopt conflict-of-interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the research and prevention programs committees, and CPRIT employees.

(b) Requires a CPRIT employee, oversight committee member, program integration committee member, or research and prevention programs committee member to recuse himself or herself, as provided by Section 102.1061(a), (b), or (c) as applicable, if the employee or member, or a person who is related to the employee or member within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from CPRIT.

(c) 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, another governing board, or any committee of the entity during the same grant cycle;

(2) serves as an elected or appointed officer of the entity or of a foundation or similar organization affiliated with the entity;

(3) is an employee of or is negotiating future employment with the entity or with a foundation or similar organization affiliated with the entity;

(4) represents the entity or a foundation or similar organization affiliated with the entity;

(5) is a professional associate of a primary member of the entity's research or prevention program 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 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 team; or

(8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program team, and those differences are known to the professional community and could be perceived as affecting objectivity.

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

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from CPRIT or in a foundation or similar organization affiliated with the entity; or

(2) could reasonably foresee that an action taken by CPRIT, a research and prevention programs committee, the program integration committee, or the oversight committee could result in a financial benefit to the person.

(e) Provides that nothing in this chapter limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

SECTION 15. Amends Subchapter C, Chapter 102, Health and Safety Code, by adding Sections 102.1061 through 102.1064, as follows:

Sec. 102.1061. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL. (a) Requires the member, if an oversight committee member or program integration committee member has a conflict of interest as described by Section 102.106 regarding an application that comes before the member for review or other action, to:

(1) provide written notice to the chief executive officer and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the oversight committee; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) Requires the employee, if a CPRIT employee has a conflict of interest described by Section 102.106 regarding an application that comes before the employee for review or other action, to:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(c) Requires the member, if a research and prevention programs committee member has a conflict of interest described by Section 102.106 regarding an application that comes before the member's committee for review or other action, to:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(d) Authorizes an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee with a conflict of interest to seek a waiver as provided by Section 102.1062.

(e) Provides that an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee who reports a potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the conflict-of-interest provisions of this chapter. Provides that the member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(f) Provides that an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee who intentionally violates this section is subject to removal from further participation in CPRIT's grant review process.

Sec. 102.1062. EXCEPTIONAL CIRCUMSTANCES REQUIRING PARTICIPATION. Requires the oversight committee to adopt rules governing the waiver of the conflict-of-interest requirements of this chapter under exceptional circumstances for an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee. Requires that the rules:

(1) authorize the chief executive officer or an oversight committee member to propose the granting of a waiver by submitting to the presiding officer of the oversight committee a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;

(2) require a proposed waiver to be publicly reported at a meeting of the oversight committee;

(3) require a majority vote of the oversight committee members present and voting to grant a waiver;

(4) require any waiver granted to be reported annually to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over CPRIT matters; and

(5) require CPRIT to retain documentation of each waiver granted.

Sec. 102.1063. INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST.

(a) Requires an oversight committee member, a program integration committee member, a research and prevention programs committee member, or a CPRIT employee who becomes aware of a potential conflict of interest described by Section 102.106 that has not been reported to immediately notify the chief executive officer of the potential

conflict of interest. Requires the chief executive officer, on notification, to notify the presiding officer of the oversight committee and the general counsel, who is required to determine the nature and extent of any unreported conflict.

(b) Requires a grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported to file a written request with CPRIT's chief executive officer. Requires that the applicant:

(1) include in the request all facts regarding the alleged conflict of interest; and

(2) submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c) Requires CPRIT's general counsel, on notification of an alleged conflict of interest under Subsection (a) or (b), to:

(1) investigate the matter; and

(2) provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes a statement of facts; a determination of whether a conflict of interest or another impropriety or self-dealing exists; and if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d) Requires CPRIT's general counsel, if the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, to provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e) Requires the chief executive officer, after receiving the opinion and consulting with the presiding officer of the oversight committee, to take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the impropriety or self-dealing. Requires the presiding officer of the oversight committee, if the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, to take actions regarding the recusal or other action.

Sec. 102.1064. FINAL DETERMINATION OF UNREPORTED CONFLICT OF INTEREST. (a) Requires the chief executive officer or, if applicable, the presiding officer of the oversight committee to make a determination regarding the existence of an unreported conflict of interest described by Section 102.1063 or other impropriety or self-dealing. Requires that the determination specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

(1) reconsideration of the application; or

(2) referral of the application to another research and prevention programs committee for review.

(b) Provides that the determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c) Requires the chief executive officer or, if applicable, the presiding officer of the oversight committee, to provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation.

(d) Provides that, unless specifically determined by the chief executive officer or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

SECTION 16. Amends Section 102.107, Health and Safety Code, as follows:

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

- (1) hire a chief executive officer, rather than hire an executive director;
- (2) annually set priorities as prescribed by the legislature for each grant program that receives money under this chapter; and
- (3) consider the priorities set under Subdivision (2) in awarding grants under this chapter.

SECTION 17. Amends Subchapter C, Chapter 102, Health and Safety Code, by adding Sections 102.109 and 102.110, as follows:

Sec. 102.109. CODE OF CONDUCT. (a) Requires the oversight committee to adopt a code of conduct applicable to each oversight committee member, program integration committee member, and CPRIT employee.

(b) Requires that the code of conduct at a minimum include provisions prohibiting the member, the employee, or the member's or employee's spouse from:

- (1) accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse of the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;
- (2) accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;
- (3) accepting other employment or compensation that could reasonably impair the member's or employee's independent judgment in the performance of official duties;
- (4) making personal investments or having a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;
- (5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;
- (6) leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from CPRIT;
- (7) submitting a grant application for funding by CPRIT;
- (8) serving on the board of directors of an organization established with a grant from CPRIT; or

(9) serving on the board of directors of a grant recipient.

Sec. 102.110. FINANCIAL STATEMENT REQUIRED. Requires each member of the oversight committee to file with the chief compliance officer a verified financial statement complying with Sections 572.022 (Reporting Categories; Required Descriptions), Government Code, 572.023 (Contents of Financial Statement in General), Government Code, 572.024 (Information About Services for Lobbyists or Lobbyist Employers), Government Code, 572.025 (Information About Legislators' Representation Before Executive State Agencies), Government Code, 572.0251 (Information About Legislative Continuances), Government Code, 572.0252 (Information About Referrals), Government Code, as required of a state officer by Section 572.021 (Financial Statement Required), Government Code.

SECTION 18. Amends Section 102.151, Health and Safety Code, by amending Subsections (a-1) and (b) and adding Subsections (c) and (e), as follows:

(a-1) Requires the oversight committee to establish research and prevention programs committees. Requires the chief executive officer, with approval by simple majority of the members of the oversight committee, to appoint as members of research and prevention programs committees experts in the field of cancer research and prevention, including qualified trained cancer patient advocates who meet the qualifications developed by rule as provided by Subsection (c), rather than requires the executive director, with approval by simple majority of the members of the oversight committee, to appoint as members of scientific research and prevention programs committees experts in the field of cancer research and prevention.

(b) Requires CPRIT to adopt a written policy on in-state or out-of-state residency requirements for members of the research and prevention programs committees. Deletes existing text authorizing individuals appointed to the research and prevention programs committee to be residents of another state.

(c) Requires the oversight committee to adopt rules regarding the qualifications required for an individual who will serve as a trained cancer patient advocate committee member for a research and prevention programs committee. Requires that the rules require a trained cancer patient advocate to receive science-based training.

(e) Requires the chief executive officer, in consultation with the oversight committee, to adopt a policy and document any change in the amount of honorarium paid to a member of a research and prevention programs committee, including information explaining the basis for changing the amount.

SECTION 19. Amends Section 102.152, Health and Safety Code, to make conforming changes.

SECTION 20. Amends Sections 102.156(a), (b), and (c), Health and Safety Code, as follows:

(a) Requires a member of a research and prevention programs committee appointed under this subchapter to disclose in writing to the chief executive officer if the member has a professional or financial interest, as defined by Section 102.106, in an entity that has a direct interest in a matter that comes before the member's committee, rather than 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 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.

(b) Requires the member to recuse himself or herself in the manner described by Section 102.1061 from the committee's deliberations and actions on the matter in Subsection (a) and prohibits the member from participating in the committee's decision on the matter.

(c) Prohibits a member of a research and prevention programs committee appointed under this chapter from serving on the board of directors or other governing board of an entity receiving a grant from CPRIT or of a foundation or similar organization affiliated with the entity. Deletes existing text providing that a person has a substantial financial interest in an entity if the person is an employee, member, director, or officer of the entity or owns or controls, directly or indirectly, more than a five percent interest in the entity.

SECTION 21. Amends Sections 102.201(b) and (c), Health and Safety Code, as follows:

(b) Provides that the cancer prevention and research fund (fund) consists of certain income, including appropriations of money to the fund by the legislature, except that the appropriated money is prohibited from including the proceeds from the issuance of bonds authorized by Section 67 (Cancer Prevention and Research Institute of Texas), Article III, Texas Constitution. Deletes existing text providing that the fund consists of patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255 (Contract Terms).

(c) Authorizes the fund to be used only to pay for certain expenses, including debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution.

SECTION 22. Amends Section 102.251, Health and Safety Code, by amending Subsection (a) and adding Subsections (c), (d), and (e), as follows:

(a) Requires the oversight committee to issue rules regarding the procedure for awarding grants to an applicant under this chapter. Requires that the rules include the following procedures:

(1) requires a research and prevention programs committee to score, rather than review, grant applications and make recommendations to the program integration committee, established under Section 102.264, and the oversight committee, rather than make recommendations to the executive director, regarding the award of cancer research and prevention grants, including a prioritized list that:

(A) ranks the grant applications in the order the committee determines applications should be funded; and

(B) includes information explaining how each grant application on the list meets the research and prevention programs committee's standards for recommendation;

(2) requires the program integration committee, rather than the executive director, to submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that:

(A) includes documentation on the factors the program integration committee considered in making the grant recommendations;

(B) is substantially based on the list submitted by the research and prevention programs committee under Subdivision (1); and

(C) to the extent possible, gives priority to proposals that fulfill certain criteria, including expedite innovation and product development, rather than expedite innovation and commercialization, attract, create, or expand private sector entities that will drive a substantial increase in high-quality jobs, and increase higher education applied science or technology research capabilities and address the goals of the Texas Cancer Plan; and

(3) requires CPRIT's chief compliance officer to compare each grant application submitted to CPRIT to a list of donors from any nonprofit organization

established to provide support to CPRIT compiled from information made available under Section 102.262(c) before the application is submitted to a research and prevention programs committee for review and again before any grant is awarded to the applicant.

(c) Requires the chief executive officer to submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee under Subsection (a) (2). Requires that the affidavit contain all relevant information on:

- (1) the peer review process for the grant application;
- (2) the application's peer review score assigned by the research and prevention programs committee; and
- (3) if applicable, the intellectual property and other due diligence reviews of the application.

(d) Prohibits a member of the program integration committee from discussing a grant applicant recommendation with a member of the oversight committee unless the chief executive officer and the program integration committee have fulfilled the requirements of Subsections (a)(2) and (c), as applicable.

(e) Prohibits CPRIT from awarding a grant to an applicant who has made a gift or grant to CPRIT or a nonprofit organization established to provide support to CPRIT.

SECTION 23. Amends Section 102.252, Health and Safety Code, as follows:

Sec. 102.252. New heading: FUNDING RECOMMENDATIONS. Requires two-thirds of the members of the oversight committee present and voting to vote to approve each funding recommendation of the program integration committee. Requires that a statement explaining the reasons a funding recommendation was not followed, if the oversight committee does not approve a funding recommendation of the program integration committee, be included in the minutes of the meeting. Deletes existing text requiring the oversight committee to follow the funding recommendations of the executive director in the order the executive director submits the applications to the oversight committee unless two-thirds of the members of the oversight committee vote to disregard a recommendation.

SECTION 24. Amends Section 102.255, Health and Safety Code, by amending Subsections (b), (c), and (d) and adding Subsection (e), as follows:

(b) Requires the oversight committee, before awarding a grant under Subchapter E (Cancer Prevention and Research Fund), to enter into a written contract with the grant recipient. Authorizes the contract to specify that:

- (1) Makes a nonsubstantive change;
- (2) if the grant recipient has not used grant money awarded under Subchapter E, rather than if, as of a date specified in the contract, the grant recipient has not used grant money awarded under Subchapter E, for the purposes for which the grant was intended, the recipient is required to repay that amount and any related interest applicable under the contract to the state at the agreed rate and on the agreed terms; and
- (3) if the grant recipient fails to meet the terms and conditions of the contract, CPRIT is authorized to terminate the contract using the written process prescribed in the contract and require the recipient to repay the grant money awarded under Subchapter E and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms.

(c) Requires that the contract:

(1) Makes nonsubstantive changes;

(2) require, in accordance with Subsection (d), the grant recipient to dedicate an amount of matching funds equal to one-half of the amount of the research grant awarded; and

(3) specify the amount of matching funds to be dedicated under Subdivision (2), the period in which the grant award is required to be spent, the name of the research project to which matching funds are to be dedicated, and the specific deliverables of the project that is the subject of the grant proposal.

(d) Requires the recipient, before the oversight committee may make for cancer research any grant of any proceeds of the bonds issued under Subchapter E, to certify that the recipient has an amount of funds equal to one-half of the grant and dedicate those funds to the research that is the subject of the grant request, rather than funds equal to one-half of the grant dedicated to the research that is the subject of the grant request. Requires CPRIT to adopt rules specifying how a grant recipient fulfills obligations under this subchapter. Requires that the rules, at a minimum:

(1) allow a grant recipient that is a public or private institution of higher education, as defined by Section 61.003 (Definitions), Education Code, to credit toward the recipient's matching funds the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the recipient and the indirect cost rate authorized by Section 102.203(c) (relating to prohibiting a person receiving money under this subchapter for cancer research from spending more than five percent of the money for indirect costs);

(2) require that a grant recipient certify before the distribution of any money awarded under a grant for cancer research that encumbered funds equal to one-half of the amount of the total grant award are available and not yet expended for research that is the subject of the grant or if the grant recipient is a public or private institution of higher education, the indirect cost rate authorized by the federal research grants awarded to the recipient;

(3) specify that a grant recipient receiving more than one grant award may provide matching funds certification at an institutional level; the recipient of a multiyear grant award is authorized to certify matching funds on a yearly basis; and grant funds may not be distributed to the grant recipient until the annual certification of the matching funds has been approved;

(4) specify that money used for purposes of certification is authorized to include federal funds, including funds provided under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and the fair market value of drug development support provided to the recipient by the National Cancer Institute or other similar programs; funds of this state; funds of other states; and nongovernmental funds, including private funds, foundation grants, gifts, and donations;

(5) specify that the following items do not qualify for purposes of the certification required by this subsection: in-kind costs; volunteer services furnished to a grant recipient; noncash contributions; income earned by the grant recipient that is not available at the time of the award; preexisting real estate of the grant recipient, including buildings, facilities, and land; deferred giving, including a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund; or other items as may be determined by the oversight committee;

(6) require a grant recipient and CPRIT to include the certification in the grant award contract;

(7) specify that a grant recipient's failure to provide certification is required to serve as grounds for terminating the grant award contract;

(8) require a grant recipient to maintain adequate documentation supporting the source and use of the funds required by this subsection and to provide documentation to CPRIT upon request; and

(9) require that CPRIT establish a procedure to conduct an annual review of the documentation supporting the source and use of funds reported in the required certification.

(e) Requires CPRIT to adopt a policy on advance payments to grant recipients.

SECTION 25. Amends Section 102.260, Health and Safety Code, by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f), as follows:

(b)-(c) Changes references to the executive director to the chief executive officer.

(d) Requires CPRIT to establish and implement reporting requirements to ensure that each grant recipient complies with the terms and conditions in the grant contract, including verification of the amounts of matching funds dedicated to the research that is the subject of the grant award to the grant recipient.

(e) Requires CPRIT to implement a system to track the dates on which grant recipient reports are due and are received by CPRIT and monitor the status of any required report that is not timely submitted to CPRIT by a grant recipient.

(f) Requires the chief compliance officer to monitor compliance with this section and at least annually to inquire into and monitor the status of any required report that is not timely submitted to CPRIT by a grant recipient. Requires the chief compliance officer to notify the general counsel and the oversight committee of a grant recipient that has not maintained compliance with the reporting requirements or matching funds provisions of the grant contract to allow CPRIT to begin suspension or termination of the grant contract under Subsection (b). Provides that this subsection does not limit other remedies available under the grant contract.

SECTION 26. Amends Section 102.262, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Requires that the records of a nonprofit organization established to provide support to CPRIT are public information subject to Chapter 552 (Public Information), Government Code.

(d) Requires CPRIT to post on CPRIT's Internet website records that pertain specifically to any gift, grant, or other consideration provided to CPRIT, a CPRIT employee, or a member of a CPRIT committee. Requires that the posted information include each donor's name and the amount and date of the donor's donation.

SECTION 27. Amends Subchapter F, Chapter 102, Health and Safety Code, by adding Sections 102.263, 102.2631, and 102.264, 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 chief 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; 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; and other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation is confidential and is not subject to disclosure under Chapter 552, Government Code.

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

(e) 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 laws and procedures:

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

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

Sec. 102.2631. COMPLIANCE MATTERS; CLOSED MEETING. Authorizes the oversight committee to conduct a closed meeting under Chapter 551 (Open Meetings), Government Code, to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Sec. 102.264. PROGRAM INTEGRATION COMMITTEE. (a) Requires CPRIT to establish a program integration committee. Provides that the committee is composed of the following five members: the chief executive officer; the chief scientific officer; the chief product development officer; the commissioner of state health services; and the chief prevention officer.

(b) Provides that the committee has the duties assigned under this chapter.

(c) Requires the chief executive officer to serve as the presiding officer of the program integration committee.

SECTION 28. Amends Chapter 102, Health and Safety Code, by adding Subchapter G, as follows:

SUBCHAPTER G. CANCER PREVENTION AND RESEARCH INTEREST AND SINKING FUND

Sec. 102.270. ESTABLISHMENT OF FUND. (a) Provides that the fund is a dedicated account in the general revenue fund.

(b) Provides that the fund consists of:

(1) patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255; and

(2) interest earned on the investment of money in the fund.

(c) Authorizes the fund to be used only to pay for debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution, at a time and in a manner to be determined by the legislature in the General Appropriations Act.

SECTION 29. (a) Provides that the terms of the members of the oversight committee serving immediately before the effective date of this Act expire on the effective date of this Act.

(b) Requires the governor, lieutenant governor, and speaker of the house of representatives, as soon as practicable after the effective date of this Act, to each appoint members to the oversight committee as required by Section 102.101 (Composition of Oversight Committee), Health and Safety Code, as amended by this Act. Requires each appointing office, in making the initial appointments under that section, to designate one member for a term expiring January 31, 2015, one member for a term expiring January 31, 2017, and one member for a term expiring January 31, 2019.

SECTION 30. (a) Requires the oversight committee, as soon as practicable after the effective date of this Act, to adopt the rules necessary to implement the changes in law made by this Act.

(b) Makes application of this Act prospective.

(c) Requires employees, oversight committee members, and members of other committees of CPRIT, not later than January 1, 2014, to comply with the changes in law made by this Act regarding the qualifications of the employees and members.

(d) Requires the oversight committee, not later than December 1, 2013, to employ a chief compliance officer and a chief executive officer as required by Section 102.051(c), and Section 102.0511, Health and Safety Code, as added by this Act, not later than December 1, 2013.

(e) 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 31. Effective date: upon passage or September 1, 2013.