

By: Nelson

S.B. No. 149

A BILL TO BE ENTITLED

AN ACT

relating to the Cancer Prevention and Research Institute of Texas.

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

SECTION 1. Section 102.051, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) The institute shall employ a compliance officer, who, under the direction of the executive director, shall ensure that:

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

(2) the institute 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. Section 102.052(a), Health and Safety Code, is amended to read as follows:

(a) The institute shall issue an annual public report outlining the institute's activities, grants awarded, grants in progress, research accomplishments, and future program directions. The report must include:

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

(2) identification of the grant recipients for the reported year;

(3) the institute's administrative expenses;

1 (4) an assessment of the availability of funding for  
2 cancer research from sources other than the institute;

3 (5) a summary of findings of research funded by the  
4 institute, including promising new research areas;

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

8 (7) a statement of the institute's strategic research  
9 and financial plans; ~~and~~

10 (8) an estimate of how much cancer has cost the state  
11 during the year, including the amounts spent by the state relating  
12 to cancer by the child health program, the Medicaid program, the  
13 Teacher Retirement System of Texas, and the Employees Retirement  
14 System of Texas; and

15 (9) a statement of the institute's compliance program  
16 activities, including any proposed legislation or other  
17 recommendations identified through the activities.

18 SECTION 3. Subchapter B, Chapter 102, Health and Safety  
19 Code, is amended by adding Section 102.057 to read as follows:

20 Sec. 102.057. PROHIBITED OFFICE LOCATION. An institute  
21 employee may not have an office in a facility owned by an entity  
22 receiving or applying to receive money from the institute.

23 SECTION 4. Section 102.107, Health and Safety Code, is  
24 amended to read as follows:

25 Sec. 102.107. POWERS AND DUTIES. The oversight committee  
26 shall:

27 (1) hire an executive director;

1           (2) annually set priorities for each grant program and  
2 each category of funded research that receives money under this  
3 chapter; and

4           (3) consider the priorities set under Subdivision (2)  
5 in awarding grants under this chapter.

6           SECTION 5. Section 102.156, Health and Safety Code, is  
7 amended by amending Subsection (a) and adding Subsection (d) to  
8 read as follows:

9           (a) A member of a research and prevention programs  
10 committee, the university advisory committee, or any ad hoc  
11 committee appointed under this subchapter shall disclose in writing  
12 to the executive director if the member has a professional [~~an~~  
13 ~~interest in a matter that comes before the member's committee~~] or  
14 [~~has~~] a substantial financial interest in an entity that has a  
15 direct interest in a [~~the~~] matter that comes before the member's  
16 committee.

17           (d) A person has a professional interest in an entity  
18 receiving or applying to receive money from the institute if the  
19 person:

20           (1) is a member of the board of directors, other  
21 governing board, or any committee of the entity during the same  
22 grant cycle;

23           (2) serves as an elected or appointed officer of the  
24 entity;

25           (3) is an employee of or is negotiating future  
26 employment with the entity;

27           (4) represents the entity;

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

3           (6) is, or within the preceding six years has been, a  
4 student, postdoctoral associate, or part of a laboratory research  
5 group for a primary member of the entity's research or prevention  
6 program applicant's team;

7           (7) is engaged or is actively planning to be engaged in  
8 collaboration with a primary member of the entity's research or  
9 prevention program applicant's team; or

10           (8) has long-standing scientific differences or  
11 disagreements with a primary member of the entity's research or  
12 prevention program applicant's team, and those differences:

13                   (A) are known to the professional community; and

14                   (B) could be perceived as affecting objectivity.

15           SECTION 6. Subchapter D, Chapter 102, Health and Safety  
16 Code, is amended by adding Section 102.157 to read as follows:

17           Sec. 102.157. CONFLICT OF INTEREST: WAIVER. (a) The  
18 executive director may expressly waive the recusal requirement and  
19 participation prohibition of Section 102.156(b) if the executive  
20 director determines that:

21                   (1) it would be difficult or impractical to carry out  
22 necessary action without the waiver;

23                   (2) the need for the participation of the member  
24 outweighs the member's potential bias; and

25                   (3) the waiver is in the best interest of the institute  
26 and would not impair the integrity of the deliberation, action, or  
27 decision.

1       (b) The executive director shall maintain a written record  
2 of each waiver and the reasons for it.

3       SECTION 7. Subchapter F, Chapter 102, Health and Safety  
4 Code, is amended by adding Section 102.263 to read as follows:

5       Sec. 102.263. COMPLIANCE PROGRAM. (a) In this section,  
6 "compliance program" means a process to assess and ensure  
7 compliance by the institute's committee members and employees with  
8 applicable laws, rules, and policies, including matters of:

- 9               (1) ethics and standards of conduct;  
10              (2) financial reporting;  
11              (3) internal accounting controls; and  
12              (4) auditing.

13       (b) The institute shall establish a compliance program that  
14 operates under the direction of the institute's compliance officer.  
15 The institute may establish procedures, such as a telephone  
16 hotline, to allow private access to the compliance program office  
17 and to preserve the confidentiality of communications and the  
18 anonymity of a person making a compliance report or participating  
19 in a compliance investigation.

20       (c) The following are confidential:

21              (1) information that directly or indirectly reveals  
22 the identity of an individual who made a report to the institute's  
23 compliance program office, sought guidance from the office, or  
24 participated in an investigation conducted under the compliance  
25 program; and

26              (2) information that directly or indirectly reveals  
27 the identity of an individual who is alleged to have or may have

1 planned, initiated, or participated in activities that are the  
2 subject of a report made to the office if, after completing an  
3 investigation, the office determines the report to be  
4 unsubstantiated or without merit.

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

7 (e) Information is excepted from disclosure under Chapter  
8 552, Government Code, if it is collected or produced in a compliance  
9 program investigation and releasing the information would  
10 interfere with an ongoing compliance investigation.

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

14 (1) a law enforcement agency or prosecutor;

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

19 (3) a committee member or employee of the institute  
20 who is responsible under institutional policy for a compliance  
21 program investigation or for a review of a compliance program  
22 investigation.

23 (g) A disclosure under Subsection (f) is not a voluntary  
24 disclosure for purposes of Section 552.007, Government Code.

25 SECTION 8. (a) Not later than December 1, 2013, the Cancer  
26 Prevention and Research Institute of Texas Oversight Committee  
27 shall employ a compliance officer as required by Section

1 102.051(c), Health and Safety Code, as added by this Act.

2 (b) As soon as practicable after the effective date of this  
3 Act, the Cancer Prevention and Research Institute of Texas  
4 Oversight Committee shall establish a compliance program as  
5 required by Section 102.263, Health and Safety Code, as added by  
6 this Act.

7 SECTION 9. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2013.