

By: Davis

S.B. No. 386

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 102.003, Health and Safety Code, is amended to read as follows:

Sec. 102.003. SUNSET PROVISION. The Cancer Prevention and Research Institute of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the institute is abolished and this chapter expires September 1, 2015 [~~2021~~].

SECTION 2. Subchapter A, Chapter 102, Health and Safety Code, is amended by adding Section 102.004 to read as follows:

Sec. 102.004. AUDIT. The financial transactions of the institute and the operations of the oversight committee are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

SECTION 3. 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) each grant proposal that is submitted to the oversight committee for approval complies with this chapter and with rules adopted under this chapter;

(2) each grant contract includes language describing

1 the terms and conditions of the grant;

2 (3) each grant and grant contract is annually reviewed
3 by the compliance officer; and

4 (4) the institute, its employees, and its committee
5 members appointed under this chapter comply with state law,
6 including the laws and rules governing the peer review process and
7 conflicts of interest.

8 SECTION 4. Section 102.052(a), Health and Safety Code, is
9 amended to read as follows:

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

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

16 (2) identification of the grant recipients for the
17 reported year and information obtained under Section 102.264
18 regarding each recipient's compliance with the terms and conditions
19 of the recipient's grant contract;

20 (3) the institute's administrative expenses;

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

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

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

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

3 (8) an estimate of how much cancer has cost the state
4 during the year, including the amounts spent by the state relating
5 to cancer by the child health program, the Medicaid program, the
6 Teacher Retirement System of Texas, and the Employees Retirement
7 System of Texas; and

8 (9) an assessment of the compliance of all grant
9 recipients by the compliance officer.

10 SECTION 5. Section 102.056, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 102.056. SALARY. The oversight committee by majority
13 vote ~~[institute]~~ may approve a salary supplement for the ~~[salary of~~
14 ~~the]~~ executive director and other senior institute staff members,
15 subject to legislative appropriations. Funding for a salary
16 supplement may only come from ~~[gifts, grants, donations, or]~~
17 legislative appropriations.

18 SECTION 6. Subchapter B, Chapter 102, Health and Safety
19 Code, is amended by adding Section 102.057 to read as follows:

20 Sec. 102.057. STANDARDS OF CONDUCT. (a) An oversight
21 committee member or institute employee may not make a personal
22 investment in or have a financial interest in a business entity or
23 other organization receiving or applying to receive money from the
24 institute.

25 (b) An oversight committee member may not serve on the board
26 of directors or other governing board of a nonprofit entity a
27 primary purpose of which is to support the institute.

1 (c) An institute employee may not serve on the board of
2 directors or other governing board of an entity receiving a grant
3 from the institute.

4 SECTION 7. Sections 102.101(b) and (e), Health and Safety
5 Code, are amended to read as follows:

6 (b) The oversight committee is composed of the following
7 nine ~~[11]~~ members:

8 (1) three members appointed by the governor;

9 (2) three members appointed by the lieutenant
10 governor; and

11 (3) three members appointed by the speaker of the
12 house of representatives~~+~~

13 ~~[(4) the comptroller or the comptroller's designee,~~
14 ~~and~~

15 ~~[(5) the attorney general or the attorney general's~~
16 ~~designee].~~

17 (e) A person may not be a member of the oversight committee
18 if the person or the person's spouse:

19 (1) is employed by or participates in the management
20 of a business entity or other organization receiving money from the
21 institute;

22 (2) owns or controls, directly or indirectly, an ~~[more~~
23 ~~than a five percent]~~ interest in a business entity or other
24 organization receiving money from the institute; or

25 (3) uses or receives a substantial amount of tangible
26 goods, services, or money from the institute, other than
27 reimbursement authorized by this chapter for oversight committee

1 membership, attendance, or expenses.

2 SECTION 8. Section 102.104, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 102.104. OFFICERS. The oversight committee shall
5 elect [~~select~~] a presiding officer and assistant presiding officer
6 from among its members every two years.

7 SECTION 9. Sections 102.156(a) and (c), Health and Safety
8 Code, are amended to 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 an interest in a matter
13 that comes before the member's committee or has a [~~substantial~~]
14 financial interest in an entity that has a direct interest in the
15 matter.

16 (c) A person has a [~~substantial~~] financial interest in an
17 entity if the person:

18 (1) is an employee, member, director, or officer of
19 the entity; or

20 (2) owns or controls, directly or indirectly, an [~~more~~
21 ~~than a five percent~~] interest in the entity.

22 SECTION 10. Section 102.203(e), Health and Safety Code, is
23 amended to read as follows:

24 (e) Not less [~~more~~] than 10 percent of the money awarded
25 under this subchapter each year must [~~may~~] be used for cancer
26 prevention and control programs [~~during any year~~].

27 SECTION 11. Section 102.251, Health and Safety Code, is

1 amended by adding Subsection (c) to read as follows:

2 (c) The executive director shall submit a written affidavit
3 for each grant application recommendation included on the list
4 submitted to the oversight committee under Subsection (a)(2). The
5 affidavit must state that the grant application has been reviewed
6 and recommended in accordance with the required review process
7 under this section.

8 SECTION 12. Subchapter F, Chapter 102, Health and Safety
9 Code, is amended by adding Section 102.2511 to read as follows:

10 Sec. 102.2511. GRANT APPLICANT STANDARDS OF CONDUCT. A
11 person, business entity, or organization applying to receive a
12 grant from the institute may not make a gift, grant, donation, or
13 other financial contribution to:

14 (1) the institute unless:

15 (A) the grant for which the applicant applied is
16 awarded to another applicant; or

17 (B) the grant recipient makes the gift, grant,
18 donation, or other financial contribution to the institute at least
19 30 days after the date the grant is awarded; or

20 (2) an elected state official who appoints a person to
21 the oversight committee, unless the gift, grant, donation, or other
22 financial contribution is made in compliance with other applicable
23 law and:

24 (A) the grant for which the applicant applied is
25 awarded to another applicant; or

26 (B) the grant recipient makes the gift, grant,
27 donation, or other financial contribution to the official at least

1 30 days after the date the grant is awarded.

2 SECTION 13. Section 102.252, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 102.252. FUNDING [~~OVERRIDING~~] RECOMMENDATIONS. The
5 oversight committee by two-thirds vote shall approve each grant
6 application submitted to the committee by [~~must follow the funding~~
7 ~~recommendations of~~] the executive director [~~in the order the~~
8 ~~executive director submits the applications to the oversight~~
9 ~~committee unless two-thirds of the members of the oversight~~
10 ~~committee vote to disregard a recommendation~~].

11 SECTION 14. Sections 102.255(b) and (d), Health and Safety
12 Code, are amended to read as follows:

13 (b) Before awarding a grant under Subchapter E, the
14 committee shall enter into a written contract with the grant
15 recipient. The contract may specify that:

16 (1) if all or any portion of the amount of the grant is
17 used to build a capital improvement:

18 (A) the state retains a lien or other interest in
19 the capital improvement in proportion to the percentage of the
20 grant amount used to pay for the capital improvement; and

21 (B) the grant recipient shall, if the capital
22 improvement is sold:

23 (i) repay to the state the grant money used
24 to pay for the capital improvement, with interest at the rate and
25 according to the other terms provided by the contract; and

26 (ii) share with the state a proportionate
27 amount of any profit realized from the sale; [~~and~~]

1 (2) if, as a result of an annual review required under
2 Section 102.264, the compliance officer determines [~~of a date~~
3 ~~specified in the contract,~~] the grant recipient has not complied
4 with the terms and conditions of the grant contract and refuses to
5 comply with a remediation plan approved by the oversight committee
6 [~~used grant money awarded under Subchapter E for the purposes for~~
7 ~~which the grant was intended~~], the recipient shall repay the [~~that~~]
8 grant money awarded under Subchapter E [~~amount~~] and any related
9 interest applicable under the contract to the state at the agreed
10 rate and on the agreed terms.

11 (d) Before the oversight committee may make for cancer
12 research any grant of any proceeds of the bonds issued under
13 Subchapter E, the recipient of the grant must have an amount of
14 funds equal to one-half of the grant specifically dedicated to the
15 research that is the subject of the grant request.

16 SECTION 15. Section 102.262, Health and Safety Code, is
17 amended by adding Subsection (c) to read as follows:

18 (c) The records of a foundation established to benefit the
19 institute shall be considered public information subject to Chapter
20 552, Government Code.

21 SECTION 16. Subchapter F, Chapter 102, Health and Safety
22 Code, is amended by adding Sections 102.263 and 102.264 to read as
23 follows:

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

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

5 (b) The institute shall establish a compliance program that
6 operates under the direction of the institute's compliance officer.
7 The institute may establish procedures, such as a telephone
8 hotline, to allow private access to the compliance program office
9 and to preserve the confidentiality of communications and the
10 anonymity of a person making a compliance report or participating
11 in a compliance investigation.

12 (c) The following are confidential:

13 (1) information that directly or indirectly reveals
14 the identity of an individual who made a report to the institute's
15 compliance program office, sought guidance from the office, or
16 participated in an investigation conducted under the compliance
17 program; and

18 (2) information that directly or indirectly reveals
19 the identity of an individual who is alleged to have or may have
20 planned, initiated, or participated in activities that are the
21 subject of a report made to the office if, after completing an
22 investigation, the office determines the report to be
23 unsubstantiated or without merit.

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

26 (e) Information is excepted from disclosure under Chapter
27 552, Government Code, if it is collected or produced in a compliance

1 program investigation and releasing the information would
2 interfere with an ongoing compliance investigation.

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

6 (1) a law enforcement agency or prosecutor;

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

11 (3) a committee member or institute employee who is
12 responsible under institutional policy for a compliance program
13 investigation or for a review of a compliance program
14 investigation.

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

17 Sec. 102.264. ANNUAL REVIEW OF GRANT RECIPIENTS BY
18 COMPLIANCE OFFICER. (a) The compliance officer shall annually
19 review each grant recipient to ensure that the grant recipient is in
20 compliance with the terms and conditions of the grant recipient's
21 contract with the institute.

22 (b) If the compliance officer determines that a grant
23 recipient has not maintained compliance with the terms and
24 conditions of the grant contract, the compliance officer shall
25 recommend a remediation plan to the oversight committee to assist
26 the grant recipient in complying with the contract.

27 (c) The oversight committee shall approve or disapprove a

1 remediation plan submitted by the compliance officer. If approved,
2 the compliance officer shall submit the approved remediation plan
3 to the grant recipient.

4 SECTION 17. (a) As soon as practicable after the effective
5 date of this Act, the Cancer Prevention and Research Institute of
6 Texas Oversight Committee shall adopt the rules necessary to
7 implement the changes in law made by this Act.

8 (b) The changes in law made by this Act apply only to a grant
9 application submitted to the Cancer Prevention and Research
10 Institute of Texas on or after the effective date of this Act. A
11 grant application submitted before the effective date of this Act
12 is governed by the law in effect on the date the application was
13 submitted, and that law is continued in effect for that purpose.

14 (c) Not later than January 1, 2014, employees, oversight
15 committee members, and members of other committees of the Cancer
16 Prevention and Research Institute of Texas must comply with the
17 changes in law made by this Act regarding the qualifications of the
18 employees and members.

19 SECTION 18. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2013.