

BILL ANALYSIS

Senate Research Center

H.B. 15
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are few effective treatments or cures for hundreds of brain diseases and disorders that affect many Americans, including conditions like Alzheimer's disease, autism, stroke, depression, and substance abuse and addiction. These diseases and disorders may significantly impact individuals and families and the impact to the economy can be equally significant. Nine of the most common neurological diseases, including Alzheimer's disease, Parkinson's disease, and epilepsy, cost the nation approximately \$800 billion per year. The addition of the observed impact of COVID-19 on brain health, both physical and mental, underscores the need for more understanding of the brain.

H.B. 15 seeks to establish the Brain Institute of Texas to create and expedite innovation in brain research to improve the health of residents of this state and enhance the potential for a medical or scientific breakthrough in brain-related sciences and biomedical research in Texas. With the Cancer Prevention and Research Institute of Texas as a model, the bill aims to leverage the expertise and resources of the public and private institutions of higher education in Texas and other partners to create a state-funded research collaborative to put Texas at the forefront of brain research.

H.B. 15 amends current law relating to the creation of the Brain Institute of Texas and grants authority to issue bonds.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Brain Institute of Texas Oversight Committee in SECTION 1 (Sections 157.106, 157.108, 157.111, 157.253, and 157.255, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle H, Title 3, Education Code, by adding Chapter 157, as follows:

CHAPTER 157. BRAIN INSTITUTE OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 157.001. **DEFINITIONS.** Defines "higher education advisory committee," "institute," "oversight committee," "peer review committee," "program integration committee," and "research plan."

Sec. 157.002. **PURPOSES.** Provides that the Brain Institute of Texas (institute) is established to:

- (1) create and expedite innovation in brain research to improve the health of residents of this state, enhance the potential for a medical or scientific breakthrough in brain-related sciences and biomedical research, and enhance the brain research superiority of this state;

(2) attract, create, or expand research capabilities of eligible institutions of higher education by awarding grants to the institutions to promote a substantial increase in brain research, strategies for prevention of brain-related diseases, brain health initiatives, and the creation of jobs in this state; and

(3) develop and implement the Texas Brain Health and Research Plan (research plan) to foster synergistic collaboration and investigation into brain health and research by eligible institutions of higher education and their partners.

Sec. 157.003. SUNSET PROVISION. Provides that the institute is subject to Chapter 325 (Sunset Law), Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the institute is abolished and this chapter expires September 1, 2032.

SUBCHAPTER B. POWERS AND DUTIES OF INSTITUTE

Sec. 157.051. POWERS AND DUTIES. (a) Provides that the institute:

(1) is authorized to make grants to further the purposes of this chapter, including:

(A) implementing the research plan;

(B) researching:

(i) the causes of and prevention, treatment, rehabilitation, and cures for brain-related diseases, syndromes, disorders, dysfunction, injuries, developmental issues, neurological health issues, mental and behavioral health issues, and substance abuse disorders and other addictions; and

(ii) any other area impacting the brain, including an area that directly or indirectly impacts or is impacted by the brain or brain health, such as the gut microbiome, nutrition, and the spinal cord or nervous system, that the Brain Institute of Texas Peer Review Committee (peer review committee) and the Brain Institute of Texas Oversight Committee (oversight committee) approve;

(C) providing money for facilities, equipment, supplies, salaries, benefits, and other costs related to brain research; and

(D) establishing prevention programs and strategies to mitigate the incidence of detrimental health impacts on the brain;

(2) is required to collaborate with relevant state agencies, coordinating councils, and consortiums to enhance brain-related health care and research;

(3) is authorized to establish appropriate standards and oversight bodies to ensure money authorized under this chapter is properly used for the purposes of this chapter;

(4) is authorized to employ necessary staff to provide administrative support to the institute;

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

(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;

(7) is required to establish procedures to document that the institute, its employees, and any committee members appointed under this chapter comply with all rules governing conflicts of interest and the peer review process developed under Section 157.252; and

(8) is required to create a statewide research and clinical data registry for brain research.

(b) Requires the institute to establish the Brain Institute of Texas Program Integration Committee (program integration committee) composed of:

(1) the institute's chief executive officer;

(2) three senior-level institute employees responsible for program policy and oversight appointed by the chief executive officer, with the approval of a simple majority of the members of the oversight committee; and

(3) the executive commissioner of the Health and Human Services Commission (executive commissioner) or the executive commissioner's designee.

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

(d) Provides that the program integration committee has the duties assigned under this chapter.

(e) Requires the institute to implement and monitor the research plan and revise the plan as necessary.

Sec. 157.052. CHIEF EXECUTIVE OFFICER; CHIEF COMPLIANCE OFFICER; ADDITIONAL OFFICERS. (a) Requires the oversight committee to hire a chief executive officer. Requires the chief executive officer to perform the duties required under this chapter or designated by the oversight committee. Requires the chief executive officer to have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(b) Requires the institute to employ a chief compliance officer to monitor compliance with this chapter and rules adopted under this chapter and report incidents of noncompliance to the oversight committee. 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 consideration and approval; and

(2) attend and observe peer review committee meetings to ensure compliance with this chapter and rules adopted under this chapter.

(c) Authorizes the chief compliance officer to appoint as the officer's designee another institute employee to attend and observe one or more peer review committee meetings to ensure compliance with this chapter and rules adopted under this chapter if the chief compliance officer is unable to attend the meeting.

(d) Authorizes the chief executive officer to hire any other officer position the chief executive officer determines necessary for efficient operation of the institute.

Sec. 157.053. ANNUAL REPORT; INTERNET POSTING. Requires the institute, not later than January 31 of each year, to prepare and submit to the governor, the lieutenant governor, the speaker of the Texas House of Representatives (house), and each standing committee of the legislature having primary jurisdiction over institute matters and post on the institute's Internet website a written report that outlines:

- (1) the institute's activities under this chapter;
- (2) a list of grant recipients during the preceding state fiscal year, including the grant amount awarded to each recipient;
- (3) any research accomplishments made during the preceding state fiscal year by a grant recipient or the recipient's partners;
- (4) an overview summary of the institute's financial records and strategies;
- (5) an assessment of the relationship between the institute's grants and the strategy of its research program;
- (6) a statement of the institute's strategic research plans;
- (7) an estimate of the amount of money brain disease has cost this state during the most recent state fiscal year for which data is available, including the amounts spent by this state relating to brain disease by the Medicaid program, the Teacher Retirement System of Texas, and the Employees Retirement System of Texas;
- (8) a statement of the institute's compliance program activities, including any proposed legislation or other recommendations identified through the activities;
- (9) for the preceding state fiscal year:
 - (A) a list of any conflicts of interest under this chapter or rules adopted under this chapter;
 - (B) any conflicts of interest that require recusal under Section 157.107;
 - (C) any unreported conflicts of interest confirmed by an investigation conducted under Section 157.109, including any actions taken by the institute regarding an unreported conflict of interest and subsequent investigation; and
 - (D) any waivers granted through the process established under Section 157.108; and
- (10) the institute's future direction.

Sec. 157.054. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY COMPTROLLER. (a) Requires the institute to annually commission an independent financial audit of its activities from a certified public accounting firm. Requires the institute to provide the audit to the Comptroller of Public Accounts of the State of Texas (comptroller).

(b) Requires the comptroller to review and evaluate the audit and annually issue a public report of that review.

(c) Requires the oversight committee to review the annual financial audit, the comptroller's report and evaluation of that audit, and the financial practices of the institute.

Sec. 157.055. GRANT RECORDS. (a) Requires the institute to maintain complete records of:

(1) the review of each grant application submitted to the institute, including the score assigned to each grant application reviewed by the peer review committee in accordance with rules adopted under Section 157.253, regardless of whether the grant application is not funded by the institute or is withdrawn after submission to the institute;

(2) each grant recipient's financial reports;

(3) each grant recipient's progress reports; and

(4) the institute's review of the grant recipient's financial and progress reports.

(b) Requires the institute to keep the records described by Subsection (a) for at least 15 years.

Sec. 157.056. GIFTS AND GRANTS. Authorizes the institute to solicit and accept gifts and grants from any source for the purposes of this chapter.

Sec. 157.057. PROHIBITED OFFICE LOCATION. Prohibits an institute employee from having an office located in a facility owned by an entity receiving or applying to receive money from the institute.

SUBCHAPTER C. OVERSIGHT COMMITTEE

Sec. 157.101. COMPOSITION OF OVERSIGHT COMMITTEE. (a) Provides that the oversight committee is the governing body of the institute.

(b) Provides that the oversight committee is composed of the following nine members:

(1) three members appointed by the governor;

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

(3) three members appointed by the speaker of the house.

(c) Prohibits a person from being a member of the oversight committee if the person or the person's spouse:

(1) is employed by or participates in the management of an entity or collaborative partner receiving money from the institute;

(2) owns or controls, directly or indirectly, an interest in an entity or collaborative partner receiving money from the institute; or

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

Sec. 157.102. REMOVAL. (a) Provides that it is a ground for removal from the oversight committee that a member:

(1) is ineligible for membership under Section 157.101(c);

(2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(3) is absent from more than half of the regularly scheduled oversight committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) Provides that the validity of an action of the oversight committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) Requires the institute's chief executive officer, if the chief executive officer has knowledge that a potential ground for removal exists, to notify the presiding officer of the oversight committee of the potential ground. Requires the presiding officer to then notify the appointing authority and the attorney general that a potential ground for removal exists. Requires the chief executive officer, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the oversight committee, who is required to then notify the appointing authority and the attorney general that a potential ground for removal exists.

Sec. 157.103. TERMS; VACANCY. (a) Provides that oversight committee members serve at the pleasure of the appointing authority for staggered six-year terms, with the terms of three members expiring January 31 of each even-numbered year.

(b) Requires the appropriate appointing authority, if a vacancy occurs on the oversight committee, to appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. Requires the appropriate appointing authority to appoint the successor not later than the 30th day after the date the vacancy occurs.

Sec. 157.104. OFFICERS. (a) Requires the oversight committee to elect 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 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 institute employees.

Sec. 157.105. EXPENSES. Provides that a member of the oversight committee is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in attending meetings of the committee or performing other official duties authorized by the presiding officer.

Sec. 157.106. CONFLICT OF INTEREST. (a) Requires the oversight committee to adopt conflict-of-interest rules, based on standards adopted by the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the peer review committee, and institute employees.

(b) Requires an institute employee, oversight committee member, program integration committee member, or peer review committee member to recuse himself or herself, as provided by Section 157.107(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 the institute.

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

(1) is a member of the board of directors, another governing board, or any committee of the entity, or of a foundation or similar organization affiliated with 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 project 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 project team; or

(7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's project team.

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

(2) could reasonably foresee that an action taken by the institute, the peer review 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.

Sec. 157.107. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL. (a) Requires an oversight committee member or program integration committee member, if the member has a conflict of interest as described by Section 157.106 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 an institute employee, if the employee has a conflict of interest described by Section 157.106 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 a peer review committee member, if the member has a conflict of interest described by Section 157.106 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, peer review committee member, or institute employee with a conflict of interest to seek a waiver as provided by Section 157.108.

(e) Provides that an oversight committee member, program integration committee member, peer review committee member, or institute 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, peer review committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

Sec. 157.108. 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, peer review committee member, or institute 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, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters; and

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

Sec. 157.109. INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST.

(a) Requires an oversight committee member, a program integration committee member, a peer review committee member, or an institute employee who becomes aware of a potential conflict of interest described by Section 157.106 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 the institute's chief executive officer. Requires the applicant to:

(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 the institute'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) a statement of facts;

(B) a determination of whether a conflict of interest or another impropriety or self-dealing exists; and

(C) 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 the institute'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. 157.110. 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 157.109 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 peer review 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, 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.

Sec. 157.111. RULEMAKING AUTHORITY. Authorizes the oversight committee to adopt rules to administer this chapter.

Sec. 157.112. POWERS AND DUTIES. Requires the oversight committee to:

(1) hire a chief executive officer;

(2) annually set priorities as prescribed by the legislature for each grant project that receives money under this chapter; and

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

Sec. 157.113. CODE OF CONDUCT. Requires the oversight committee to adopt a code of conduct applicable to each member of the oversight committee, the program integration committee, and the peer review committee and each institute employee.

Sec. 157.114. 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), 572.023 (Contents of Financial Statement in General), 572.024 (Information About Services for Lobbyists or Lobbyist Employers), 572.025 (Information About Legislators' Representation Before Executive State Agencies), 572.0251 (Information About Legislative Continuances), and 572.0252 (Information About Referrals), Government Code, as required of a state officer by Section 572.021 (Financial Statement Required), Government Code.

SUBCHAPTER D. OTHER INSTITUTE COMMITTEES

Sec. 157.151. PEER REVIEW COMMITTEE. (a) Requires the oversight committee to establish the peer review committee. Requires the chief executive officer, with approval by a simple majority of the members of the oversight committee, to appoint as members of the peer review committee experts in fields related to the brain, including research, health care, disease treatment and prevention, and other study areas.

(b) Requires the oversight committee to adopt a written policy on in-state or out-of-state residency requirements for peer review committee members.

(c) Authorizes a peer review committee member to receive an honorarium. Provides that Subchapter B (Consulting Services), Chapter 2254 (Professional and Consulting Services), Government Code, does not apply to an honorarium the member receives under this chapter.

(d) Requires the chief executive officer, in consultation with the oversight committee, to adopt a policy regarding honoraria and document any change in the amount of honoraria paid to a member of the peer review committee, including information explaining the basis for that change.

(e) Prohibits a member of the peer review committee appointed under this chapter from serving on the board of directors or other governing board of an entity or the entity's collaborator receiving a grant from the institute.

(f) Provides that members of the peer review committee serve for terms as determined by the chief executive officer.

Sec. 157.152. HIGHER EDUCATION ADVISORY COMMITTEE. (a) Sets forth the composition of the Brain Institute of Texas Higher Education Advisory Committee (higher education advisory committee).

(b) Requires the higher education advisory committee to advise the oversight committee, the program integration committee, and the peer review committee on issues, opportunities, the role of higher education, and other subjects involving brain research.

Sec. 157.153. AD HOC ADVISORY COMMITTEE. (a) Authorizes the oversight committee, as necessary, to create additional ad hoc advisory committees of experts to advise the oversight committee and the peer review committee on issues relating to brain research, brain health, brain-related diseases, spinal cord injuries, traumatic brain injuries, mental and behavioral health issues, including substance abuse disorders and other addictions, or other brain- or neurological-related issues.

(b) Requires ad hoc committee members to serve for the terms determined by the oversight committee.

SUBCHAPTER E. FUNDING

Sec. 157.201. BRAIN INSTITUTE OF TEXAS RESEARCH FUND. (a) Provides that the Brain Institute of Texas research fund (fund) is a dedicated account in the general revenue fund.

(b) Provides that the fund consists of:

(1) appropriations of money to the fund by the legislature, except that the appropriated money does not include the proceeds from the issuance of bonds authorized by Section 68, Article III (Legislative Department), Texas Constitution;

(2) gifts and grants, including grants from the federal government, and other donations received for the fund; and

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

(c) Authorizes the fund to only be used for:

(1) the award of grants authorized under this chapter, including grants for brain research and for research facilities in this state to conduct brain research;

(2) the purchase, subject to approval by the oversight committee, of research facilities by or for a grant recipient;

(3) the operation of the institute;

(4) debt service on bonds issued as authorized by Section 68, Article III, Texas Constitution; and

(5) the payment of the costs of issuing the bonds and related bond administration costs of the Texas Public Finance Authority (TPFA).

Sec. 157.202. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) Authorizes the institute to request TPFA to issue and sell general obligation bonds of the state as authorized by Section 68, Article III, Texas Constitution.

(b) Prohibits TPFA from issuing and selling general obligation bonds authorized by this section before January 1, 2022, and from issuing and selling more than \$300 million in general obligation bonds authorized by this section in a state fiscal year.

(c) Requires the institute to determine, and include in its request for issuing bonds, the amount, exclusive of costs of issuance, of the bonds to be issued and the preferred time for issuing the bonds.

(d) Requires TPFA to issue the bonds in accordance with and subject to Chapter 1232 (Texas Public Finance Authority), Government Code, and TPFA rules. Authorizes the bonds to be issued in installments.

(e) Requires that proceeds of the bonds issued under this section be deposited to the credit of the fund and used only for the purposes authorized under Section 157.201.

Sec. 157.203. AUTHORIZED USE OF GRANT MONEY. (a) Authorizes a grant recipient awarded money from the fund established under Section 157.201 to use the money for research consistent with the purposes of this chapter and in accordance with a contract between the grant recipient and the institute.

(b) Authorizes money awarded under this chapter to be used for authorized expenses, including honoraria, salaries and benefits, travel, conference fees and expenses, consumable supplies, other operating expenses, contracted research and development, capital equipment, and construction or renovation of state or private facilities.

(c) Authorizes not more than five percent of the money awarded under this subchapter in a state fiscal year to be used for facility purchase, construction, remodel, or renovation purposes during that year. Requires that expenditures of money awarded under this subchapter for facility purchase, construction, remodel, or renovation projects benefit brain research.

(d) Authorizes not more than 10 percent of the money appropriated by the legislature for grants in a state fiscal year to be used for prevention projects and strategies to mitigate the incidence of detrimental health impacts on the brain during that year.

Sec. 157.204. PREFERENCE FOR TEXAS BUSINESSES. Requires TPFA, if TPFA contracts with a private entity to issue bonds under this subchapter, to consider:

(1) contracting with an entity that has its principal place of business in this state; and

(2) using a historically underutilized business as defined by Section 2161.001 (Definitions), Government Code.

SUBCHAPTER F. PROCEDURE FOR AWARDING GRANTS

Sec. 157.251. ELIGIBLE GRANT RECIPIENTS. (a) Provides that a public or private institution of higher education in this state, including any institution of higher education under Section 61.003 (Definitions), is eligible for a grant award under this chapter.

(b) Authorizes a grant recipient to use the money received from a grant awarded under this chapter for purposes of this chapter and in a collaborative partnership with:

- (1) another eligible institution in this state, including a historically black college or university;
- (2) a nonprofit or for-profit organization in this state;
- (3) a health care organization in this state;
- (4) a branch of the United States armed forces for a project based in this state;
- (5) a private company in this state;
- (6) a federal, state, or local government for a project based in this state; or
- (7) another relevant person or organization in this state.

Sec. 157.252. AWARD REVIEW PROCESS. Requires the institute to use a peer review process to evaluate and recommend all grants awarded by the oversight committee under this chapter.

Sec. 157.253. GRANT AWARD RULES AND PROCEDURES. (a) Requires the oversight committee to adopt rules establishing procedures for awarding grants under Subchapter E. Requires that the rules require:

- (1) the peer review committee to score grant applications and make recommendations to the program integration committee and the oversight committee regarding the award of grants, including the creation of a prioritized list that:
 - (A) ranks the grant applications in the order the peer review committee determines applications should be funded; and
 - (B) includes information explaining the reasons each grant application on the list meets the peer review committee's standards for recommendation; and
- (2) the program integration committee 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 peer review committee under Subdivision (1); and

(C) to the extent possible, gives priority to proposals that:

(i) align with the research plan;

(ii) align with state priorities and needs, including priorities and needs outlined in other state agency strategic plans, or address federal or other major research sponsors' priorities in scientific or technological fields in the area of brain research;

(iii) enhance the research superiority at eligible institutions of higher education by creating new research superiority, attracting existing research superiority, or enhancing existing research superiority;

(iv) benefit the residents of this state, including a demonstrable economic or job creation benefit to this state; and

(v) if applicable, are interdisciplinary or interinstitutional, or have collaborators or partnerships.

(b) Prohibits a member of a peer review committee from attempting to use the committee member's official position to influence a decision to approve or award a grant or contract to the committee member's employer.

(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; and

(2) the application's peer review score assigned by the peer review committee.

(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) Requires that two-thirds of the members of the oversight committee present and voting vote to approve each funding recommendation made by the program integration committee. Requires that, if the oversight committee does not approve a funding recommendation made by the program integration committee, a statement explaining the reasons the funding recommendation was not followed be included in the minutes of the meeting.

(f) Prohibits the oversight committee from awarding more than \$300 million in grants under this chapter in a state fiscal year.

(g) Prohibits the institute from awarding a grant to an applicant who has made a gift or grant with a value that exceeds \$50 to the institute, an oversight committee member, or an institute employee on or after January 1, 2022. Authorizes the oversight committee to waive this exclusion under rules adopted under Section 157.108.

Sec. 157.254. MULTIYEAR PROJECTS. (a) Authorizes the oversight committee to award grant money for a multiyear project.

(b) Requires the oversight committee, if the committee awards grant money to fund the multiyear project, to specify the total amount of that money awarded in the state fiscal year that the project is approved. Requires the institute to distribute only the amount of grant money that the grant recipient will spend during that fiscal year. Requires the institute to distribute the remaining grant money as the grant recipient needs in each subsequent state fiscal year.

Sec. 157.255. CONTRACT TERMS. (a) Requires the institute, before awarding a grant under this chapter, to enter into a written contract with the grant recipient. Authorizes the contract to specify that:

(1) except for awards to state agencies or public institutions of higher education, if all or any portion of the amount of the grant is used to build a capital improvement:

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

(B) the grant recipient is required, if the capital improvement is sold, to:

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

(ii) share with the state a proportionate amount of any profit realized from the sale;

(2) if the grant recipient does not use grant money awarded under Subchapter E for the purposes approved by the oversight committee, the recipient is required to repay to this state that amount and any related interest applicable under the grant contract 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, the institute is authorized to terminate the contract using the written process prescribed in the contract and require the recipient to repay to this state the grant money awarded under Subchapter E and any related interest applicable under the contract at the agreed rate and on the agreed terms.

(b) Requires the oversight committee to adopt rules to administer this section.

Sec. 157.256. PATENT ROYALTIES AND LICENSE REVENUES. (a) Requires the oversight committee to establish standards requiring all grant awards to be subject to an intellectual property agreement that allows this state to collect royalties, income, and other benefits, including interest or proceeds resulting from securities and equity ownership, realized as a result of projects undertaken with money awarded under Subchapter E. Authorizes the oversight committee to exempt state agencies and public institutions of higher education from the standards.

(b) Requires the oversight committee, in determining this state's interest in any intellectual property rights and revenue sharing, to balance the opportunity of this state to benefit from the patents, royalties, licenses, and other benefits that result from basic research, therapy development, and clinical trials with the need to ensure that essential medical research is not unreasonably hindered by the intellectual property agreement and that the agreement does not unreasonably remove the incentive on the part of the individual researcher, research team, or institution.

(c) Authorizes the oversight committee to transfer its management and disposition authority over this state's interest in securities, equities, royalties, income, and other benefits realized as a result of projects undertaken with money awarded under Subchapter E to the Texas Treasury Safekeeping Trust Company (trust company). Provides that, if the oversight committee transfers management and disposition authority to the trust company, the company has all powers necessary to accomplish the purposes of this section.

(d) Authorizes the trust company, in managing the assets described by Subsection (c), subject to restrictions that the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire, exchange, sell, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment, including the requirements prescribed by Subsection (b) and the purposes described by Section 157.002. Authorizes the trust company to charge a fee to recover the reasonable and necessary costs incurred in managing assets under this section.

Sec. 157.257. **PREFERENCE FOR TEXAS SUPPLIERS.** Requires the oversight committee, in a good faith effort to achieve a goal of more than 50 percent of purchases from suppliers in this state, to establish standards to ensure that grant recipients purchase goods and services from suppliers in this state to the extent reasonably possible.

Sec. 157.258. **HISTORICALLY UNDERUTILIZED BUSINESSES.** Requires the oversight committee to establish standards to ensure that grant recipients purchase goods and services from historically underutilized businesses as defined by Section 2161.001, Government Code, and any other applicable state law.

Sec. 157.259. **GRANT COMPLIANCE AND PROGRESS EVALUATION.** (a) Requires the oversight committee to require as a condition of a grant awarded under this chapter that the grant recipient submit to regular reviews of the grant project by institute staff to ensure compliance with the terms of the grant and to ensure ongoing progress, including the scientific merit of the research.

(b) Requires the institute to establish and implement a grant compliance and progress review process under this section that includes reporting requirements to ensure each grant recipient complies with the terms and conditions of a grant contract. Authorizes the chief executive officer to terminate grants that do not meet contractual obligations.

(c) Requires the chief executive officer to report at least annually to the oversight committee on the progress and continued merit of the projects awarded grants by the institute.

(d) Requires the institute to implement a system to:

(1) track the dates grant recipient reports are due and are received by the institute; and

(2) monitor the status of any required report not timely submitted to the institute by a grant recipient.

(e) Requires the chief compliance officer to monitor compliance with this section and is required to inquire into and monitor the status of any required report not timely submitted to the institute by a grant recipient. Requires the chief compliance officer to notify the general counsel for the institute and the oversight committee of a grant recipient that has not complied with the reporting requirements or provisions of the grant contract to allow the institute to begin

suspension or termination of the grant contract. Provides that this subsection does not limit other remedies available under the grant contract.

Sec. 157.260. MEDICAL AND RESEARCH ETHICS. Requires that any project that is awarded a grant under this chapter comply with all applicable federal and state laws regarding the conduct of the research or prevention project.

Sec. 157.261. PUBLIC INFORMATION. (a) Provides that the following information is public information and is authorized to be disclosed under Chapter 552 (Public Information), Government Code:

- (1) the applicant's name and address;
- (2) the amount requested in the applicant's grant proposal;
- (3) the type of brain research to be addressed under the proposal; and
- (4) any other information the institute designates with the consent of the grant applicant.

(b) Provides that, to protect the actual or potential value of information submitted to the institute by an applicant for or recipient of an institute grant, the following information submitted by the applicant or recipient is confidential and is not subject to disclosure under Chapter 552, Government Code, or any other law:

- (1) all information, other than the information required under Subsection (a) that is contained in a grant award application, peer review evaluation, award contract, or progress report relating to a product, device, or process, the application or use of the product, device, or process, and all technological and scientific information, including computer programs, developed wholly or partly by a grant applicant or recipient, regardless of whether patentable or capable of being registered under copyright or trademark laws, that has a potential for being sold, traded, or licensed for a fee; and
- (2) the plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility.

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

Sec. 157.262. COMPLIANCE PROGRAM; CONFIDENTIAL INFORMATION. (a) Defines "compliance program."

(b) Requires the institute to establish a compliance program that operates under the direction of the institute's chief compliance officer. Authorizes the institute to establish procedures, including 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 the following information is confidential and not subject to disclosure under Chapter 552, Government Code:

- (1) information that directly or indirectly reveals the identity of an individual who made a report to the institute's compliance program office,

sought guidance from the office, or participated in an investigation conducted under the compliance program;

(2) 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

(3) other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation.

(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 a 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 institute employee who is responsible under institutional 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. 157.263. 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. 157.264. APPROPRIATION CONTINGENCY. Provides that the institute is required to implement a provision of this chapter only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, the institute, if the legislature does not appropriate money specifically for that purpose, to implement the provision using other money available to the institute for that purpose.

SECTION 2. Amends Section 51.955(c), Education Code, to provide that Subsection (b)(1) (relating to prohibiting a state agency that expends appropriated funds from entering into a research contract with an institution of higher education if that contract contains certain provisions) does not apply to a research contract between an institution of higher education and the institute.

SECTION 3. Amends Section 61.003(6), Education Code, to redefine, for purposes of Chapter 61 (Texas Higher Education Coordinating Board), "other agency of higher education" to include the institute.

SECTION 4. (a) Requires the appropriate appointing authority, not later than December 1, 2022, to appoint the members to the oversight committee as required by Section 157.101, Education Code, as added by this Act. Prohibits the oversight committee from taking action until a majority of the appointed members have taken office.

(b) Requires the governor, lieutenant governor, and speaker of the house, notwithstanding Section 157.101, Education Code, as added by this Act, in making the initial appointments under that section, to , as applicable, designate one member of the institute appointed by that person to serve a term expiring January 31, 2024, one member appointed by that person to serve a term expiring January 31, 2026, and one member appointed by that person to serve a term expiring January 31, 2028.

SECTION 5. Provides that, if the constitutional amendment proposed by the 87th Legislature, Regular Session, 2021, authorizing the issuance of general obligation bonds and the dedication of bond proceeds to the institute established to fund brain research is approved by the voters, the institute established by Chapter 157, Education Code, as added by this Act, is eligible to receive funding through the proceeds deposited under the authority of Section 68, Article III, Texas Constitution, for any activities conducted by the institute that serve the purposes of that constitutional provision.

SECTION 6. Effective date: January 1, 2022, contingent upon approval by the voters of the constitutional amendment relating to authorizing the issuance of general obligation bonds and the dedication of bond proceeds to the institute established to fund brain research in this state.