

## **BILL ANALYSIS**

C.S.H.B. 15  
By: Thompson, Senfronia  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There are few effective treatments or cures for the multitude of mental health and brain diseases and disorders that affect many Americans, including conditions like autism, stroke, depression, schizophrenia, traumatic brain injuries, and substance abuse and addiction. The Meadows Mental Health Policy Institute reports that, in Texas, one in six adults and one in three children suffer from a mental health disorder in a given year. A reported 61 percent of children with depression receive no treatment, while suicide is the second leading cause of death among children ages 10 through 24. These diseases and disorders significantly impact individuals and their families, and the impact to the economy is equally significant. ScienceDaily reports that nine of the most common neurological diseases, including Alzheimer's disease, Parkinson's disease, and epilepsy, cost the nation approximately \$800 billion per year. C.S.H.B. 15 seeks to establish the Mental Health and Brain Research Institute of Texas to issue grants to eligible institutions of learning and other entities studying mental health or brain-related diseases and disorders to promote a substantial increase in related research, prevention, initiatives, treatment, rehabilitation, protocols, and cures and to foster the creation of high-quality jobs in Texas.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Mental Health and Brain Research Institute of Texas and the Mental Health and Brain Research Institute of Texas Oversight Committee in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 15 amends the Education Code to establish the Mental Health and Brain Research Institute of Texas for the following purposes:

- creating and expediting innovation in mental health and brain research to improve the health of Texas residents;
- enhancing the potential for a medical or scientific breakthrough in mental health and brain-related sciences and biomedical research;
- enhancing the mental health and brain research superiority of Texas;
- attracting, creating, or expanding research capabilities of eligible institutions of higher education and other public or private entities by awarding grants to promote a substantial increase in mental health and brain research, strategies for prevention of mental health and brain-related diseases, mental health and brain health initiatives, and the creation of high-quality jobs in Texas; and

- developing and implementing a research plan to foster synergistic collaboration and investigation into mental health and brain health research by eligible institutions of higher education and their partners.

### **Oversight Committee**

C.S.H.B. 15 establishes an oversight committee as the governing body of the institute, composed of nine members with three members each appointed by the governor, lieutenant governor, and speaker of the house of representatives. In making these appointments, the appointing authorities must each appoint at least one person who is a physician or a scientist with extensive experience in the field of mental health or brain disease or public health and should attempt to include, if possible, persons affected by mental health or brain disease or family members or caregivers of persons affected by mental health or brain disease. The bill requires the committee members to represent the geographic and cultural diversity of Texas and sets out certain conflicts of interest that preclude a person from being an oversight committee member. The bill provides for the composition of the committee, the hiring of a chief executive officer, committee meetings, terms and vacancies of committee members, election of committee officers, and the removal of a committee member on certain grounds. The bill establishes that a member of the 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.

C.S.H.B. 15 requires the oversight committee to annually set priorities for each grant program that receives money from the institute, consider those priorities in awarding grants, and adopt a code of conduct applicable to each institution-affiliated committee member and employee. The bill requires each oversight committee member to file with the institute's chief compliance officer a verified financial statement complying with specified Government Code provisions, as required of a state officer. The bill authorizes the oversight committee to adopt rules to administer the bill's provisions.

### **Powers and Duties of the Institute**

C.S.H.B. 15 sets out the powers and duties of the institute with regard to the following:

- making grants to institutions of learning, advanced medical research facilities, public and private persons, and collaborations in Texas to further the institute's purposes as provided by the bill, including the following:
  - implementation of the Texas Mental Health and Brain Health Research Plan;
  - conducting translational and clinical research of areas impacting mental health or the brain;
  - providing money for facilities, equipment, supplies, salaries, benefits, and other costs related to that research; and
  - prevention programs and mitigation strategies for incidence of detrimental health impacts on mental health or the brain;
- collaborating with state agencies and certain other entities to enhance mental health and brain-related health care and research;
- establishing the appropriate standards and oversight bodies to ensure the proper use of authorized money;
- employing necessary staff for administrative support;
- contracting with another state agency to share the cost of certain administrative services;
- monitoring grant contracts and ensuring compliance with contract terms and conditions;
- ensuring compliance of grant proposals;
- establishing procedures relating to compliance with laws and rules governing the peer review process and conflicts of interest; and
- creating a statewide research and clinical data registry for mental health and brain research.

The bill requires the institute to implement and monitor the research plan and revise the plan as necessary.

C.S.H.B. 15 requires the institute's oversight committee to hire a CEO and requires the CEO to perform specified duties and to have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions. The bill requires the institute to employ a chief compliance officer to monitor compliance with adopted rules and the bill's provisions and to report incidents of noncompliance to the committee. The bill authorizes the CEO to hire any other officer position the CEO determines necessary for efficient operation of the institute. The bill requires the institute, not later than January 31 of each year, to prepare and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature with primary jurisdiction over institute matters and to post the report on the institute's website. The bill sets out the required contents of the report.

C.S.H.B. 15 does the following:

- requires the institute to commission annually an independent financial audit of its activities from a certified public accounting firm;
- requires the oversight committee to review the audit and the financial practices of the institute;
- requires the institute to maintain complete records of the following:
  - regardless of whether the grant application is funded by the institute or is withdrawn after submission to the institute, 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 the bill's provisions;
  - each grant recipient's financial reports, including the amount of matching money dedicated to the research specified for the grant award;
  - each grant recipient's progress reports;
  - for the purpose of determining any conflict of interest, the identity of each principal investor and owner of each grant recipient as provided by institute rules; and
  - the institute's review of the grant recipient's financial reports and progress reports;
- requires the institute to keep the records until at least the 15th anniversary of the date the record was issued;
- requires the institute to prepare periodic audits of any electronic grant management system used to maintain such records and to timely address each weakness identified in a system audit;
- authorizes the institute to solicit and accept gifts and grants from any source for its purposes; and
- 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.

The bill expressly does not limit the authority of the state auditor.

### **Other Institute Committees**

C.S.H.B. 15 provides for the establishment and composition of a peer review committee composed of experts in related fields as specified by the bill and qualified trained patient advocates to be appointed by the institute's CEO with approval by a simple majority of the oversight committee. A peer review committee member serves for terms determined by the CEO and may not serve on the board of directors or other governing board of an entity receiving a grant from the institute. The bill authorizes a peer review committee member to receive reimbursement for travel expenses incurred in conducting committee business and an honorarium, which is exempt from certain provisions relating to consulting services under government contracts. The bill provides for the adoption of a policy regarding honoraria, the

documentation of changes to a member's amount of paid honoraria, and for the adoption of a policy on in-state or out-of-state residency requirements for peer review committee members. The bill requires the oversight committee to adopt rules regarding the qualifications required of a trained patient advocate committee member for a peer review committee. The adopted rules must require the trained patient advocate to successfully complete science-based training.

C.S.H.B. 15 provides for the establishment of a program integration committee composed of the following:

- the institute's CEO, who must serve as the presiding officer of the program integration committee;
- three senior-level institute employees responsible for program policy and oversight, appointed by the CEO with the approval of a majority of the oversight committee members; and
- the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee.

C.S.H.B. 15 establishes a higher education advisory committee, composed of 16 members, with one member appointed each by the president or dean, as applicable, of each of the following institutions:

- Baylor College of Medicine;
- Texas A&M Health;
- Texas Tech University Health Sciences Center;
- Texas Tech University Health Sciences Center at El Paso;
- The University of Texas Southwestern Medical Center;
- The University of Texas Medical Branch at Galveston;
- The University of Texas Health Science Center at Houston;
- The University of Texas Health Science Center at San Antonio;
- The University of Texas at Tyler Health Science Center;
- Dell Medical School at The University of Texas at Austin;
- The University of Texas M. D. Anderson Cancer Center;
- The University of Texas Rio Grande Valley School of Medicine;
- University of North Texas Health Science Center at Fort Worth;
- Rice University;
- University of Houston College of Medicine; and
- Sam Houston State University College of Osteopathic Medicine.

The bill requires the higher education advisory committee to advise the oversight committee on issues, opportunities, the role of higher education, and other subjects involving mental health or brain research and provides for the increase of committee membership to include appointees representing other institutions of higher education by majority vote of the oversight committee.

C.S.H.B. 15 authorizes the oversight committee to create as necessary additional ad hoc advisory committees of experts, whose members serve for terms determined by the oversight committee, to advise the oversight committee on issues relating to the following:

- mental health research;
- brain research, brain health, and brain-related diseases;
- spinal cord injuries and traumatic brain injuries;
- mental and behavioral health issues, including substance abuse disorders and other addictions; or
- other brain- or neurological-related issues.

The bill establishes that members of the higher education advisory committee or any ad hoc advisory committee serve without compensation but are entitled to reimbursement for certain expenses incurred in performing authorized official duties.

## **Funding**

C.S.H.B. 15 establishes the Mental Health and Brain Institute Research Fund as a special fund in the treasury outside the general revenue fund to be administered by the institute, sets out the components of the fund, and restricts the use of the fund to the following:

- the award of authorized grants, including grants for mental health and brain research, brain health studies and disease prevention, and research facilities in Texas to conduct mental health or brain research;
- the purchase of research facilities by or for a state agency or grant recipient, subject to approval by the institute; and
- the operation of the institute.

The bill establishes that the research fund is to be used by the institute as authorized under the bill without further legislative appropriation.

C.S.H.B. 15 requires the Texas Treasury Safekeeping Trust Company to hold and invest the fund for the institute in accordance with the bill's provisions and sets out authorizations, requirements, and objectives related to the fund's investment. The bill sets out the powers of the trust company in managing and investing the fund's assets, including a requirement for the expenses of managing the fund to be paid from the fund. The bill requires the trust company to annually provide a written report to the institute and to the oversight committee with respect to the investments of the fund. The bill sets out provisions relating to the adoption of a written investment policy, a forecast of the fund's cash flows, and the disbursement of money from the fund as directed by the institute.

C.S.H.B. 15 authorizes a grant recipient to use grant money in accordance with a contract between the recipient and the institute, sets out certain authorized expenses for which awarded grant money may be used, and provides caps on the amount of awarded grant money that may be used for the following purposes:

- for facility purchase, construction, remodel, or renovation purposes that benefit mental health or brain research;
- for prevention projects and strategies to mitigate the incidence of detrimental health impacts on mental health or the brain; and
- for a grant recipient's indirect costs, as defined by the bill.

## **Procedure for Awarding Grants**

C.S.H.B. 15 requires the institute to use a peer review process to evaluate and recommend all grants awarded by the oversight committee. The bill requires the oversight committee to adopt rules regarding the procedure for awarding grants, which must require the following:

- the peer review committee to score grant applications and make recommendations to the program integration and oversight committees regarding the award of grants, including providing a prioritized list that ranks the grant applications in the order the peer review committee determines applications should be funded and includes information explaining each grant applicant's qualification under the peer review committee's standards for recommendation; and
- 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 includes documentation on the factors considered, is substantially based on the peer review committee's list, and, to the extent possible, gives priority to proposals that satisfy certain criteria prescribed by the bill.

C.S.H.B. 15 does the following with respect to the award of a grant:

- prohibits a member of the peer review committee from attempting to use the member's official position to influence a decision to approve or award a grant or contract to the member's employer;

- prohibits a program integration committee member from discussing a grant applicant recommendation with an oversight committee member unless the program integration committee has submitted the list of applications approved for recommendation;
- requires two-thirds of the oversight committee members present and voting to vote to approve each funding recommendation of the program integration committee and, if the oversight committee does not approve a recommendation, requires a statement explaining the reasons the recommendation was not followed to be included in the meeting minutes;
- caps the award of grants for a state fiscal year at \$300 million; and
- prohibits the oversight committee from awarding a grant to an applicant who has made a gift or grant to the institute, an oversight committee member, or an institute employee on or after January 1, 2024.

The prohibition does not apply to certain gifts, fees, honoraria, or other items excepted under statutory provisions related to bribery and corruption.

C.S.H.B. 15 authorizes the oversight committee to approve the award of grant money for a multiyear project and requires the oversight committee to specify the total amount of money approved to fund the multiyear project. The specified total amount is considered to have been awarded in the state fiscal year that the peer review committee approved the project. The bill requires the institute to distribute only the money that will be expended during that fiscal year and to distribute the remaining grant money as needed in each subsequent state fiscal year.

C.S.H.B. 15 requires the institute, before awarding a grant, to execute a written contract with the grant recipient and sets out certain terms and conditions the contract must include. The bill requires a grant recipient, before the institute may disburse grant money, to certify that the recipient has an amount of money equal to one-half of the grant money that is available and not yet expended and dedicate that money to the research that is the subject of the grant proposal. The bill requires the institute to adopt rules regarding a grant recipient's obligations, sets out minimum requirements for such rules, and requires the institute to establish a policy on advance payments to grant recipients. The bill requires the oversight committee to adopt rules to administer the bill's provisions regarding contract terms.

C.S.H.B. 15 requires the oversight committee to establish standards requiring all grant awards to be subject to an intellectual property agreement that allows the 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 the bill's provisions. The bill provides for the institute's authority to enter into a contract with one or more third parties for assistance with such benefits. The bill requires the institute to implement practices and procedures regarding such benefits as it may determine to be in the best interest of the state and provides for the manner of determining the state's interest in any intellectual property rights.

C.S.H.B. 15 requires the oversight committee to establish standards to ensure that grant recipients purchase goods and services from suppliers in Texas to the extent reasonably possible in a good faith effort to achieve a goal of more than 50 percent of purchases from such suppliers. The oversight committee must also establish standards to ensure that grant recipients purchase goods and services from historically underutilized businesses.

C.S.H.B. 15 requires the institute to require as a condition of a grant that the grant recipient submit to regular inspection reviews of the grant project by institute staff to ensure compliance with the terms of the grant contract and ongoing progress. The CEO must report at least annually to the oversight committee on the progress and continued merit of the projects awarded grants. Any project that is awarded a grant under the bill's provisions must comply with all applicable federal and state laws regarding the conduct of the research or prevention project.

C.S.H.B. 15 sets out the information relating to a grant, grant applicant, grant recipient, or compliance program investigation that is public information and subject to disclosure under state public information law and the information that is not subject to disclosure under any law. The bill requires the institute to post on its website records that pertain to any gift, grant, or other consideration provided to the institute, an institute employee, or an oversight committee member, in the employee's or member's official capacity. The bill requires that the posted information include each donor's name and the amount and date of the donation. These posting requirements do not apply to gifts, fees, honoraria, or other items excepted under statutory provisions related to bribery and corruption.

### **Compliance Program**

C.S.H.B. 15 requires the institute to establish a compliance program operated under the chief compliance officer's direction to monitor compliance with the bill's provisions and related rules and to report incidents of noncompliance to the oversight committee. The bill requires the chief compliance officer or designee to attend and observe meetings of the peer review committee and the program integration committee to ensure compliance. The bill requires the chief compliance officer to submit a written report to the oversight committee confirming that each grant application recommendation included on the list submitted by the program integration committee followed the oversight committee's applicable rules and sets out the contents of the report. The bill requires the institute to implement a system to track specified information relating to grant recipient reports to ensure compliance with reporting requirements. The bill provides for the chief compliance officer's monitoring of compliance under the program, requires the chief compliance officer to establish procedures for investigating allegations of fraud, waste, or abuse of state resources against oversight committee members, institute employees or contractors, grant applicants, or grant recipients, and sets out requirements relating to such procedures.

### **Conflicts of Interest: Disclosure; Recusal**

C.S.H.B. 15 requires the oversight committee to adopt conflict-of-interest rules, based on existing applicable standards, to govern institute employees and members of associated committees, including the oversight committee. The bill requires a member or employee to recuse himself or herself if the member or employee, or a specified relative of the member or employee, has a professional or financial interest in an entity receiving or applying to receive money from the institute and sets out circumstances considered to constitute such an interest. The bill expressly does not limit the authority of the oversight committee to adopt additional conflict-of-interest standards.

C.S.H.B. 15 requires an oversight committee member or program integration committee member who has a conflict of interest regarding an application that comes before the member for review or other action to take the following actions:

- provide written notice to the CEO 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;
- disclose the conflict of interest in an open meeting of the oversight committee; and
- 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.

C.S.H.B. 15 requires a peer review committee member or institute employee who has a conflict of interest regarding an application that comes before the member or employee for review or other action to take the following actions:

- provide written notice to the CEO of the conflict of interest; and

- 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.

C.S.H.B. 15 establishes that an employee or committee member who intentionally violates the conflict-of-interest provisions is subject to removal from further participation in the institute's grant review process. The bill establishes that an employee or committee member who reports a potential conflict of interest or another impropriety or self-dealing of the employee or member and who fully complies with related recommendations and requirements is considered in compliance with the bill's conflict-of-interest provisions but is subject to other applicable laws, rules, requirements, and prohibitions.

C.S.H.B. 15 authorizes an employee or committee member with such a conflict of interest to seek a waiver of the conflict-of-interest requirements under exceptional circumstances requiring participation and requires the oversight committee to adopt rules governing such a waiver that do the following:

- provide for the authority of the CEO or an oversight committee member to propose granting such a waiver;
- require a proposed waiver to be publicly reported at a meeting of the oversight committee;
- require a majority vote of the oversight committee members present and voting to grant a waiver;
- require any waiver granted to be reported annually to the applicable public officials and standing legislative committees with primary jurisdiction over institute matters; and
- require the institute to retain documentation of each waiver granted.

C.S.H.B. 15 requires a committee member or institute employee who becomes aware of a potential conflict of interest that has not been reported to immediately notify the CEO of the potential conflict of interest. The CEO, upon notification of the potential conflict of interest, must notify the presiding officer of the oversight committee and the general counsel, who must determine the nature and extent of any unreported conflict. The bill requires a grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported to file a written request with the CEO, which must include all facts regarding the alleged conflict of interest and be submitted not later than the 30th day after the date the CEO presents final funding recommendations for the affected grant cycle to the oversight committee. The bill sets out the required actions of the institute's general counsel upon notification of an alleged conflict of interest. The bill provides for the CEO or the presiding officer of the oversight committee, as applicable, to take action regarding the recusal of the individual.

C.S.H.B. 15 requires the CEO or the presiding officer of the oversight committee, as applicable, to make a final determination regarding the existence of an unreported conflict of interest or other impropriety or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing. The bill establishes that the determination is final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee and establishes the validity of a grant application action despite an individual's participation in the action. The bill requires the grant applicant requesting the investigation to be provided written notice of the final determination.

### **Miscellaneous Provisions**

Implementation of a provision of this bill relating to the institute by the institute is mandatory only if a specific appropriation is made for that purpose. The bill requires the appropriate appointing authority, not later than December 1, 2024, to appoint the members to the oversight committee and prohibits the committee from acting until a majority of the members have taken office. The bill provides for the initial appointment of members with staggered terms and



requires the governor to designate one member to serve as interim presiding officer until an election is held.

C.S.H.B. 15 exempts the institute from a prohibition against a state agency entering into certain research contracts with an institution of higher education. The bill includes the Mental Health and Brain Research Institute of Texas in the definition of "other agency of higher education" for purposes of the Higher Education Coordinating Act of 1965.

Contingent on voter approval of the constitutional amendment proposed by H.J.R. 135, which creates the institute and transfers \$3 billion from general revenue to fund mental health and brain research in Texas, C.S.H.B. 15 makes the institute eligible to receive funding deposited under the authority of constitutional provisions added by that amendment for any activities conducted by the institute that serve the purposes of those provisions.

### **Definitions**

C.S.H.B. 15 sets out the following definitions for purposes of its provisions:

- "Institute" means the Mental Health and Brain Research Institute of Texas;
- "Oversight committee" means the Mental Health and Brain Research Institute of Texas Oversight Committee;
- "Peer review committee" means the Mental Health and Brain Research Institute of Texas Peer Review Committee;
- "Program integration committee" means the Mental Health and Brain Research Institute of Texas Program Integration Committee; and
- "Research plan" means the Texas Mental Health and Brain Health Research Plan developed by the institute.

### **EFFECTIVE DATE**

January 1, 2024, if the constitutional amendment requiring the creation of the Mental Health and Brain Research Institute of Texas, establishing the Mental Health and Brain Institute Research Fund to provide funding for mental health and brain research in Texas, and transferring general revenue to that fund is approved by the voters.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 15 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions absent from the introduced establishing the role of the Texas Treasury Safekeeping Trust Company as the controlling entity of the research fund and providing for the powers of the trust company in relation to the fund, annual fund reports, and the parameters of the investment of the fund.

The substitute includes a provision absent from the introduced establishing the following regarding the research fund:

- the fund is a special fund outside the general revenue fund administered by the institute; and
- the fund is to be used by the institute as authorized by the bill's provisions without further legislative appropriation.

Whereas the introduced authorized the oversight committee to transfer its management and disposition authority over the state's interest in securities, equities, royalties, income, and other benefits realized as a result of projects undertaken with awarded grant money to the trust company, the substitute authorizes the committee to authorize the institute to enter into a

contract with one or more qualified third parties for assistance with the management, accounting, and dispositions of that interest. Accordingly, the substitute does the following:

- includes a requirement absent from the introduced for the institute to implement practices and procedures with regard to that administration of the state's interest as it may determine to be in the best interest of the state; and
- omits a provision from the introduced providing for the trust company's authority to manage those assets.

Whereas the introduced made references throughout the bill's provisions to "brain disease" and "brain research," the substitute replaces some of those references with "mental health or brain disease" and "mental health or brain research," as appropriate.