

- SUBJECT:** Revising the Cancer Prevention and Research Institute of Texas
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 8 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson
- 0 nays
- 3 absent — Coleman, Collier, Zedler
- WITNESSES:** For — (*Registered, but did not testify:* Cam Scott, American Cancer Society Cancer Action Network, Texas Public Health Coalition, and Texas Cancer Partnership; Kathy Hutto, AstraZeneca; Drew Scheberle, Austin Chamber of Commerce and 2050 Group; Tom Kleinworth, Baylor College of Medicine; Amanda Martin, Texas Association of Business; Thomas Kowalski, Texas Healthcare and Bioscience Institute; Marilyn Doyle, Texas Medical Association; Thomas Parkinson)
- Against — None
- On — Kristen Doyle and Wayne Roberts, Cancer Prevention and Research Institute of Texas (*Registered, but did not testify:* Gary Thompson, Leukemia and Lymphoma Society; Paul Ballard, Texas Treasury Safekeeping Trust Company)
- BACKGROUND:** The Cancer Prevention and Research Institute of Texas (CPRIT) was established by a voter-approved constitutional amendment in 2007 that authorized the state to issue \$3 billion in bonds to fund cancer research and prevention programs and services in Texas. Under the guidance of the CPRIT oversight committee, the institute accepts applications and awards grants for cancer-related research and the delivery of cancer prevention programs and services by public and private entities in Texas.
- Health and Safety Code, sec. 102.256 directs the CPRIT oversight committee to establish standards that require 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 by the state's cancer prevention and research fund. This fund is a general revenue dedicated account.

DIGEST:

CSHB 63 would add the Cancer Prevention and Research Institute of Texas (CPRIT) to the list of agencies whose members are considered an "appointed officer of a major state agency" under Government Code, ch. 572, which prescribes requirements for state officers including personal financial disclosure, standards of conduct, and conflicts of interest, including the requirement to file a verified financial statement with the Texas Ethics Commission.

The bill would repeal a requirement in statute that appointed members of the CPRIT oversight committee be required to disclose to the institute each political contribution to a candidate for a state or federal office over \$1,000 made by the person in the five years preceding the person's appointment and each year after the person's appointment until the person's term expired. It would repeal a requirement that the institute post on the internet a report of the political contributions made by oversight committee members.

CSHB 63 would allow the CPRIT oversight committee to conduct a closed meeting, in accordance with the Texas Open Meetings Act, to discuss issues related to managing, acquiring, or selling securities or other revenue-sharing obligations realized under established standards as required by Health and Safety Code, sec. 102.256, which addresses patent royalties and license revenues paid to the state.

The bill would require that no more than 10 percent of the money appropriated by the Legislature for CPRIT grants in a state fiscal year, rather than no more than 10 percent of the money awarded by the Cancer Prevention and Research Fund, be used for cancer prevention and control programs during that year.

CSHB 63 would allow the CPRIT 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 money awarded by the Cancer Prevention and Research Fund to the Texas Treasury Safekeeping Trust Company. If this authority was transferred, the trust company would have any power necessary to accomplish the purpose of sec. 102.256, which addresses patent royalties and license revenues paid to the state.

In managing CPRIT-related patent royalties and license revenues through procedures and subject to restrictions that the Texas Treasury Safekeeping Trust Company considered appropriate, the trust company could 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 Health and Safety Code, sec. 102.256(b), which addresses the determination of the state's interest in any intellectual property rights, and the purposes of CPRIT as described in Health and Safety Code, sec. 102.002. The trust company could charge a fee to recover the reasonable and necessary costs incurred in managing these assets.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 63 would allow for responsible management of state assets, ensure appropriate allocation of prevention funding, and further align the Cancer Prevention and Research Institute of Texas (CPRIT) with other state agency requirements.

The bill would allow for responsible management of state assets by allowing the CPRIT oversight committee to transfer management and disposition authority for interests in royalties, income, and other benefits to the Texas Treasury Safekeeping Trust Company. The CPRIT oversight committee does not have the expertise to oversee the institute's complex portfolio, but the trust company has this specific expertise and is the

logical choice to oversee these assets. The transfer would allow for better asset management for those obligations owed to the state from CPRIT grant projects and would ensure that the trust company could retain management of assets if CPRIT were ever discontinued. The bill would specify that the trust company exercise reasonable care, skill, and caution with these investments.

CSHB 63 would ensure prevention funding was allocated properly by requiring that 10 percent of the money appropriated by the Legislature for grants in a fiscal year, rather than 10 percent of the money awarded by the Cancer Prevention and Research Fund, be used for prevention and control programs during that year. This would allow for full funding of prevention grants, which is especially important considering that money invested in these grants produces a significant financial return for the state.

Allowing the CPRIT oversight committee to conduct a closed meeting relating to investment ownership would protect the state's fiduciary interests. To preserve transparency, the bill would allow a closed meeting only for discussions related to managing, acquiring, or selling securities or other revenue-sharing obligations. In this meeting, CPRIT and the Texas Treasury Safekeeping Trust Company might discuss whether they would invest in a company or sell a security. Such matters must be addressed in a closed meeting so as to not affect the market or the value of an affected company. Other meetings of the oversight committee would be open.

CSHB 63 would further align CPRIT with the requirements of other state agencies by holding members of the oversight committee to the same ethical reporting standards for personal financial disclosure, standards of conduct, and conflict of interest as other appointed officers of a major state agency. Currently, some CPRIT oversight committee members voluntarily report their financial information to the Texas Ethics Commission, and CSHB 63 would make this mandatory to increase accountability and ethical standards for committee members.

It would be duplicative and a waste of resources for CPRIT to report to the Texas Ethics Commission and also file a report on its website. CPRIT

has stringent conflict of interest requirements that would not be affected by requiring the institute to follow the same rules as major state agencies. CPRIT produces the majority of its reports online and has given ample evidence that it is not beholden to political interests or political endeavors.

OPPONENTS
SAY:

CSHB 63 should not allow the CPRIT oversight committee to hold a closed meeting relating to investment ownership. Closed meetings reduce transparency and accountability regarding CPRIT operations.

While it would be a positive step forward in transparency to require CPRIT oversight committee members to file personal financial statements with the Texas Ethics Commission, members still should be required to disclose campaign contributions on the internet. Information filed with the Texas Ethics Commission is not available online, and the personal financial statement does not include information on campaign contributions. It would be prudent to continue to require oversight committee members' campaign contribution information to be publicly available online.

NOTES:

The companion bill, SB 81 by Nelson, was approved by the Senate on April 19.

The committee substitute differs from the introduced bill in several ways, including by removing provisions that would: allow an oversight committee member, program integration committee member, or institute employee to serve in an unpaid position on the board of a grant recipient after the grant was awarded; extend CPRIT's Sunset expiration date; extend the period for awarding grants; and prohibit the institute from awarding a grant to an applicant that had on its board a member of a CPRIT committee or a CPRIT employee.

CSHB 63 contains other provisions not in the filed bill, including one governing Texas Treasury Safekeeping Trust Company management of CPRIT assets.