

SUBJECT: Revising the Cancer Prevention and Research Institute of Texas

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Collier, Cortez

SENATE VOTE: On final passage, April 19 — 30 – 1 (Huffines)

WITNESSES: *On House companion bill, HB 63:*

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:

SB 81 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, such as 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.

SB 81 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.

SB 81 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 the 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 related 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:**

SB 81 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 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.

SB 81 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.

SB 81 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. Some CPRIT oversight committee members voluntarily report their financial information to the Texas Ethics Commission, and SB 81 would make this mandatory to increase accountability and ethical standards for committee members.

As a state entity, CPRIT has been able to partner with organizations such as MD Anderson, Texas Children's Hospital, and many local providers across Texas. A non-state entity would not have the same impact. The mission of CPRIT has been served by the scientists recruited to Texas with CPRIT dollars, the institutions using CPRIT funding that have become nationally recognized, and the cancer precursors that have been identified through CPRIT initiatives.

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:

SB 81 should not allow the CPRIT oversight committee to hold a closed meeting relating to investment ownership. Closed meetings reduce transparency and accountability for CPRIT operations.

The mission of CPRIT could be accomplished better by private philanthropic organizations or by federal initiatives under the National Institutes of Health, and CPRIT should be dissolved. Individual, state-funded cancer research entities such as CPRIT are too likely to make political rather than scientific decisions about where the money would go.

While it would be a positive step for transparency to require CPRIT oversight committee members to file personal financial statements with the Texas Ethics Commission, members still should have 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 requiring campaign contribution information of oversight committee members to be publicly available online.

NOTES:

A companion bill, HB 63 by S. Davis, was approved by the House on April 25.