

SUBJECT: Creating the Brain Institute of Texas; authorizing general obligation bonds

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 10 ayes — Murphy, Pacheco, Cortez, P. King, Muñoz, Ortega, Parker,
Raney, C. Turner, J. Turner

0 nays

1 absent — Frullo

WITNESSES: For — Melissa McDonald; Emily McDonald; Craig Rosenfeld; Thomas Taylor; (*Registered, but did not testify*: Anthony Haley, Baylor Scott & White Health; Jason Sabo, Children at Risk; Traci Berry, Goodwill Central Texas; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Nathan Cook, Rice University; Adriana Kohler, Texans Care for Children; Dan Finch, Texas Medical Association; Thomas Holloway, Texas Neurological Society; Stephanie Hoffman; Thomas Parkinson)

Against — None

On — Steve Strakowski, Dell Medical School at The University of Texas at Austin; Bess Frost, University of Texas Health San Antonio; Eric Boerwinkle, Samden Lhatoo, and Louise McCullough, University of Texas Health Science Center Houston; William Dauer, UT Southwestern Medical Center; (*Registered, but did not testify*: Michael Apperley, Texas Comptroller of Public Accounts)

DIGEST: CSHB 15 would create the Brain Institute of Texas to award grants to institutions of higher education to fund brain research. The bill would establish the processes for awarding grants, monitoring compliance, and recusal in the case of conflict of interest. The bill also would authorize the issuance of up to \$300 million in general obligation bonds in a fiscal year to fund the grant program.

Brain Institute. The Brain Institute of Texas would be established to:

- create and expedite innovation in brain research to improve the health of state residents, enhance the potential for a medical or scientific breakthrough in brain-related sciences and biomedical research, and enhance the brain research superiority of the state;
- attract, create, or expand research capabilities of eligible institutions of higher education by awarding grants to promote a substantial increase in brain research, strategies for prevention of brain-related diseases, brain health initiatives, and the creation of jobs; and
- develop and implement a research plan to foster synergistic collaboration and investigation into brain health and research by eligible institutions of higher education and their partners.

Sunset. The Brain Institute of Texas would be subject to review by the Sunset Advisory Commission and unless continued, would be abolished September 1, 2032.

Powers and duties. The institute could make grants to implement the research plan; research certain areas impacting the brain; provide money for facilities, equipment, and salaries; and establish prevention programs to mitigate detrimental impacts on the brain.

The bill would require the institute to collaborate with state agencies, coordinating councils, and consortiums to enhance brain-related health care and research. The institute also would have to monitor grant contracts and agreements to ensure each recipient complied with terms and conditions and ensure that all grant proposals complied with this bill and adopted rules.

The institute could establish standards and oversight bodies to ensure money was properly used and employ necessary staff for administrative support. The institute would be governed by an oversight committee, and the bill would provide for the creation of committees for program integration, peer review, and higher education advice.

The institute would have to establish procedures to document compliance with all rules governing conflicts of interest and the peer review process. The bill also would require the institute to create a statewide research and clinical data registry for brain research.

Office location. An institute employee could not have an office located in a facility owned by an entity receiving or applying for money from the institute.

Bonds. The institute could request the Texas Public Finance Authority to issue and sell general obligation bonds of the state. The authority could not issue and sell the bonds before January 1, 2022, and could not issue and sell more than \$300 million in bonds in a fiscal year. Proceeds from the bonds would be deposited to the credit of the Brain Institute of Texas research fund.

If the authority contracted with a private entity to issue the bonds, the authority would have to consider contracting with an entity that had its principal place of business in the state and using a historically underutilized business.

Fund. CSHB 15 would establish the Brain Institute of Texas research fund as a dedicated account in the general revenue fund consisting of legislative appropriations, gifts and grants, and earned interest.

The fund could be used only for:

- the award of grants for brain research;
- the purchase of approved research facilities;
- the operation of the institute; and
- debt service on and other costs of bonds.

Grant money. A grant recipient awarded money from the Brain Institute of Texas research fund could use the money for research consistent with the purposes of this bill and in accordance with a contract between the

recipient and institute.

The money could be used for authorized expenses, including honoraria, salaries and benefits, travel, conference expenses, supplies, operating expenses, contracted research and development, capital equipment, and construction of state or private facilities.

No more than 5 percent of the money could be used for facility purchase, construction, remodel, or renovation in a fiscal year, and any of these expenditures would have to benefit brain research.

No more than 10 percent of money appropriated by the Legislature for grants in a fiscal year could be used for prevention projects and strategies to mitigate the incidence of detrimental health impacts on the brain.

Grant recipients. Any public or private institution of higher education in the state would be eligible for a grant. A grant recipient could use the money for purposes of this bill and in a collaborative partnership with certain other entities in the state, including nonprofit or for-profit organizations or government entities, or for projects in the state.

Grant award process. The institute would have to use a peer review process to evaluate and recommend all grants awarded by the oversight committee. Procedures for awarding grants would have to require the peer review committee to score applications and make recommendations using a prioritized list that ranked applications in the order they should be funded.

The program integration committee would submit to the oversight committee a list of recommended applications, including documentation of the factors considered and substantially based on the prioritized list submitted by the peer review committee. To the extent possible, the recommendations would have to give priority to proposals that aligned with the research plan and state priorities, enhanced the research superiority at institutions of higher education, benefited residents of the state, and were interdisciplinary or interinstitutional.

A peer review committee member could not use the member's official position to influence a decision to approve or award a grant or contract to the member's employer. A grant could not be awarded to an applicant who made a gift or grant over \$50 to the institute or a committee member or employee on or after January 1, 2022, though the oversight committee could waive this exclusion under its adopted rules.

The institute's CEO would have to submit an affidavit for each grant application recommendation containing the peer review process and the application's peer review score.

Two-thirds of the oversight committee members would have to vote to approve each funding recommendation. If the committee did not approve a recommendation, a statement explaining the reasons would have to be included in the minutes.

The oversight committee could not award more than \$300 million in grants in a fiscal year. The bill would detail the awards process for multiyear projects.

Contract terms. Before awarding a grant, the institute would have to enter into a contract with the recipient. The contract could specify the state's interest in a capital improvement built with grant money, that the recipient would have to repay the state any amounts not used for approved purposes, and that the institute could terminate the contract if the recipient failed to meet the terms and conditions.

Patent royalties and license revenues. The oversight committee would have to establish standards requiring grant awards to be subject to intellectual property agreements that allowed the state to collect royalties, income, and other benefits realized as a result of projects undertaken with awarded money. The bill would allow the oversight committee to transfer its management and disposition authority over the state's interests to the Texas Treasury Safekeeping Trust Company.

Texas suppliers, HUBs. The bill would require the oversight committee to establish standards to ensure that grant recipients purchased goods and services from Texas suppliers and historically underutilized businesses to the extent reasonably possible.

Grant compliance and progress. The oversight committee would have to require as a condition of an awarded grant that the recipient submit to regular reviews of the project by institute staff to ensure compliance with the terms of the grant and ensure ongoing progress. The institute would establish and implement a grant compliance and progress review process. The CEO could terminate grants that did not meet contractual obligations.

The CEO would have to report at least annually to the oversight committee on the progress and continued merit of the projects awarded grants, and the institute would have to implement a system to monitor the status of reports.

Oversight committee. CSHB 15 would create the oversight committee as the governing body of the Brain Institute of Texas. The committee would be composed of nine members appointed by the governor, lieutenant governor, and House speaker to serve staggered six-year terms.

A person could not be a member of the committee if the person or the person's spouse:

- was employed by, participated in the management of, or owned or controlled an interest in an entity or partner receiving money from the institute; or
- used or received a substantial amount of tangible goods, services, or money from the institute, other than reimbursement for committee expenses.

The bill would detail the grounds for removal of a member and the process to notify and act on potential grounds for removal.

The oversight committee would have to elect a presiding officer and

assistant presiding officer from among its members every two years. The officers could not serve consecutive terms. The committee would have to distinguish the responsibilities of the committee and its officers from the responsibilities of the CEO and institute employees.

Committee members would not be entitled to compensation but could be reimbursed for expenses.

The committee would annually set priorities as prescribed by the Legislature for each grant project, and consider the priorities in awarding grants.

The bill would require the 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. Each member of the oversight committee would have to file a verified financial statement with the chief compliance officer.

The committee could adopt rules to administer the provisions of the bill.

Chief officers. The bill would require the oversight committee to hire a CEO, who would have to have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

The institute also would have to employ a chief compliance officer to report incidents of noncompliance to the oversight committee. The chief compliance officer would have to ensure that all grant proposals complied with this bill and adopted rules before they were submitted for consideration. The officer would attend and observe peer review committee meetings.

Program integration committee. The institute would have to establish a program integration committee composed of the CEO of the institute, three senior-level employees, and the executive commissioner of the Health and Human Services Commission or their designee. The institute's CEO would serve as the presiding officer of the committee.

Peer review committee. The oversight committee would have to establish a peer review committee and the CEO would appoint as members of the peer review committee experts in fields related to the brain. The oversight committee would adopt a policy on in-state or out-of-state residency requirements for peer review committee members. The members could not serve on the governing board of an entity receiving a grant. The CEO would adopt policies governing honoraria and the term length of members.

Higher education advisory committee. The higher education advisory committee would be composed of 15 members appointed by the presidents of various institutions of higher education in the state. The higher education advisory committee would advise the other committees on issues, opportunities, and the role of higher education, and other subjects involving brain research.

Ad hoc advisory committee. The oversight committee could create additional ad hoc advisory committees of experts to advise on issues relating to brain research, health, or other issues.

Conflict of interest. The bill would require the oversight committee to adopt conflict-of-interest rules, based on standards adopted by the National Institutes of Health, to govern the committee, the program integration committee, the peer review committee, and institute employees. The bill would detail the process by which committee members or employees had to recuse themselves for having a professional or financial interest in an entity receiving or applying for money from the institute.

A committee member or employee who intentionally violated conflict-of-interest requirements would be subject to removal from further participation in the institute's grant review process.

Waiver. The bill would allow a committee member or employee with a conflict of interest to seek a waiver. The oversight committee would have

to adopt rules governing a waiver of the conflict-of-interest requirements under exceptional circumstances. The rules would have to authorize the CEO or committee member to propose granting a waiver, require a proposed waiver to be publicly reported, require a majority vote to grant a waiver, and require any waiver granted to be reported to entities with jurisdiction over the institute. The rules also would have to require the institute to retain documentation of each waiver granted.

Investigation. On becoming aware that a potential conflict of interest existed that had not been reported, a committee member or employee would have to immediately notify the CEO, who would notify the presiding officer of the oversight committee and general counsel.

A grant applicant seeking an investigation regarding an unreported conflict of interest would have to file a written request with the institute's CEO. The applicant would have to submit such a request within 30 days after the final funding recommendations were made.

On notification of an alleged conflict of interest, the general counsel would have to investigate the matter and provide an opinion, including a statement of the facts, a determination, and any recommendations for appropriate course of action.

The CEO or presiding officer would make a final determination of an unreported conflict of interest that would include any actions to address the impropriety, such as reconsideration of an application or referral of the application to another peer review committee.

Public information. The bill would make the following information public information that could be disclosed: the grant applicant's name and address, the amount requested, the type of brain research to be addressed by the proposal, and any other information designed by the institute with the consent of the applicant.

The following information would be confidential and not subject to disclosure:

- all information not listed above regarding a product, device, or process and all technological and scientific information that had potential for being sold, regardless of whether patentable or capable of being registered under copyright or trademark laws; and
- the plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility.

The institute would have to post on its website records that pertained specifically to a gift, grant, or consideration provided to the institute, an employee, or a member of the oversight committee in their official capacity.

Compliance program. The institute would have to establish a compliance program to assess and ensure compliance by the committee members and employees with applicable laws, rules, and policies, including ethics and standards of conduct, financial reporting, internal accounting controls, and auditing.

Certain information regarding compliance program investigations would be confidential and not subject to public disclosure; however, the information could be made available to a law enforcement agency or prosecutor, government agency, or committee member or institute employee responsible for an investigation.

The oversight committee could conduct a closed meeting to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Annual report. By January 31 of each year, the institute would have to prepare and submit a report to the governor, lieutenant governor, House speaker, and relevant legislative committees and post the report on the institute's website. The report would outline certain items, including a list of grant recipients, research accomplishments, financial records, and other items listed in the bill.

Audit. The institute would have to annually commission an independent financial audit of its activities from a certified public accounting firm and provide the audit to the comptroller. The comptroller would review and evaluate the audit and issue a public report of the review each year. The oversight committee would have to review the audit, evaluation, and report and review the financial practices of the institute.

Grant records. The bill would require the institute to maintain complete records of the review of each grant application regardless of whether the grant was funded, each recipient's financial reports and progress reports, and the institute's review of the reports. Such records would have to be kept for at least 15 years.

Appropriation contingency. The institute would be required to implement the provisions of the bill only if the Legislature appropriated money specifically for that purpose. If money was not appropriated, the institute could, but would not be required to, implement provisions using other available money.

By December 1, 2022, the members of the oversight committee would have to be appointed. The committee could not take action until a majority of the members had taken office.

The bill would take effect January 1, 2022, but only if the constitutional amendment authorizing general obligation bonds to fund brain research was approved by voters. If not approved, the bill would have no effect.

SUPPORTERS
SAY:

CSHB 15 would create the Brain Institute of Texas to make the state a global leader in brain research and lead to more cures for some of the most devastating health issues. Even though neurological diseases and disorders affect more than 100 million Americans, the human brain is complicated and scientific discovery has not identified enough effective cures or treatments to notably impact people's lives. The Brain Institute of Texas would make grants to institutions of higher education across the state to expedite research, innovation, and breakthroughs in brain

sciences. The legislation is vital to researching both existing issues, such as military veterans with traumatic brain injuries, and emerging challenges like the negative effects of the COVID-19 pandemic.

The bill, along with HJR 5, would finance the grant program by authorizing \$300 million in general obligation bonds to be issued each year for 10 years. This would amount to less than 1 percent of the economic cost of neurological disorders and diseases in the state, which by some estimates could be as much as \$135 billion annually. As Texas continues to grow, both these economic costs and significant human costs will increase. Because discovery science for these disorders is not mature enough to attract private sector investment, such a program is vital to advance science. The bill and resolution appropriately would fund brain research, including disease prevention, treatment, and cures, to save lives and reduce costs.

Texas has some of the most respected institutions of higher education, and leveraging the institutions and their partners, including nonprofits, hospitals, and private companies, would put the state at the forefront of brain research. The institute also would attract talent to the state to increase workforce development. The organization of the Brain Institute of Texas would be based on the Cancer Prevention and Research Institute of Texas, a similar organization that has led to breakthroughs in cancer, to ensure good government practices in awarding grants and returns on state investments.

CRITICS
SAY:

CSHB 15, in combination with HJR 5, unnecessarily would expand the size of government while creating an obligation for future state funds. Funding brain research is not an essential function of state government and can be financed instead by the private sector. Also, by authorizing the issuance of \$3 billion in taxpayer-backed general obligation bonds over the next 10 years, the legislation would tie up state funds for debt service when the money could be better spent on other needs.

NOTES:

CSHB 15 is the enabling legislation for HJR 5, which would amend the Texas Constitution to authorize the issuance of up to \$3 billion in general

obligation bonds to fund brain research. HJR 5 is on the Constitutional Amendments Calendar today.

According to the Legislative Budget Board, the bill would cost about \$5 million in general revenue related funds through fiscal 2023 if the maximum amount of general obligation bonds were issued beginning in fiscal 2023. This cost reflects the debt service that would be paid from the general revenue fund and administrative expenses. These costs would grow to \$110.6 million by fiscal 2026.