

BILL ANALYSIS

Senate Research Center

S.B. 994
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As Filed

DIGEST

Currently, Texas law provides that the Texas Department of Health (department) has the authority to market software developed within the agency. Other products developed within the agency, such as a new tuberculosis test, health-related television programs, various logos, etc., must be disclosed as public information with certain statutory limitations on charges for the information. The private sector can then resell the information that was developed with taxpayer funds. This bill would exempt intellectual property from the Public Information Act; authorize the department to apply for, register, secure, hold, and protect patents, copyrights, trademarks, service marks or other evidence of protection or exclusivity issued under the laws of the United States, any state or any nation, including ideas, publications and other innovations fixed in a tangible medium. Furthermore, this bill would require money received from the selling of such properties to be deposited to the credit of the state funds from which the development was financed. This bill also allows the department to establish a Center for Public Health Development.

PURPOSE

As proposed, S.B. 994 authorizes the Texas Department of Health to apply for, register, secure, hold, and protect certain intellectual property under the law and provides that such property is exempted from the Public Information Act. This bill also allows the Texas Department of Health to establish a Center for Public Health Development.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 12B, Health and Safety Code, by adding Section 12.020, as follows:

Sec. 12.020. PROTECTION AND USE OF INTELLECTUAL PROPERTY. (a) (1) Authorizes the Texas Department of Health (department) to apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a certain patent, trademark, copyright, or other evidence of protection or exclusivity issued in or for intellectual property.

(2) Authorizes the department to enter into a contract with an individual or company for the sale, lease, marketing, or other distribution of intellectual property of the department.

(3) Authorizes the department to obtain under a contract entered into under Subdivision (2) a royalty, license right, or other appropriate means of securing appropriate compensation for the development or purchase of intellectual property of the department.

(4) Authorizes the department to waive or reduce the amount of a fee, royalty, or other things of monetary or nonmonetary value to be assessed by the department if the department determines that the waiver will further the goals and missions of the department and result in a net benefit to the state.

(b) Provides an exception from disclosure under Chapter 552, Government Code, for certain intellectual property.

(c) Authorizes the department to establish, maintain, and support a Center for Public Health Development (center) and to accept and administer, on certain terms and conditions, gifts, grants, and donations to aid in the establishment, maintenance, and operation of the center.

(d) Authorizes the center, subject to Texas Board of Health rules, to solicit and submit for the approval of the department agreements with any persons for funding the discovery, development, and commercialization of new products, technology, and scientific information.

(e) Authorizes the department, in order to carry out the purposes of the center under this section, to own certain license rights and shares, participate in certain businesses, and to carry on any other activities the department determines appropriate for achieving the purposes of this section.

(f) Prohibits the center established under this section from receiving general revenue funds through a special item appropriation in a General Appropriations Act. Requires the center to cooperate fully with similar programs operated by other state entities.

(h) Requires money paid to the department under this section to be deposited to the credit of the general revenue fund.

(i) Provides that it is not a violation of Chapter 572, Government Code, or another law of this state for an employee of the department to take certain action in regards to intellectual property; or for an individual, at the request of the Commissioner of Health (commissioner), to serve as a member of the board of directors or other governing board of a business entity that has a certain agreement with this state or a political subdivision of this state.

(j) Requires the commissioner to institute intellectual property policies for the department that establish certain minimum standards.

SECTION 2. Emergency clause.

Effective date: upon passage.