

By Representative Gannon

1                                   A bill to be entitled  
2           An act relating to the H. Lee Moffitt Cancer  
3           Center and Research Institute at the University  
4           of South Florida; amending s. 240.512, F.S.;  
5           assigning duties of the Board of Regents to the  
6           Florida Board of Education; providing for the  
7           utilization and governance of lands; revising  
8           provisions relating to corporate subsidiaries  
9           of the not-for-profit corporation; providing  
10          for applicability of sovereign immunity  
11          provisions; providing for the receipt of local  
12          funds; revising provisions relating to  
13          insurance protection; assigning duties of the  
14          center director to a chief executive officer;  
15          requiring approval of the University of South  
16          Florida Board of Trustees for establishment of  
17          academic programs; authorizing the creation and  
18          support of an interdisciplinary oncology  
19          program; providing for access to certain  
20          research information; providing for  
21          appropriations to be paid to the board of  
22          directors of the not-for-profit corporation;  
23          authorizing a challenge grant program for the  
24          construction of facilities and the support of  
25          clinical, research, and teaching programs at  
26          the institute; providing for matching funds  
27          from private sources with state funds for  
28          approved projects; providing for the receipt,  
29          holding, and disbursement of funds; providing  
30          an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 240.512, Florida Statutes, is  
4 amended to read:

5 240.512 H. Lee Moffitt Cancer Center and Research  
6 Institute.--There is established the H. Lee Moffitt Cancer  
7 Center and Research Institute at the University of South  
8 Florida.

9 (1) The Florida Board of Education Regents shall  
10 maintain ~~enter into~~ an agreement for the utilization of the  
11 lands and facilities on the campus of the University of South  
12 Florida to be known as the H. Lee Moffitt Cancer Center and  
13 Research Institute, including all furnishings, equipment, and  
14 other chattels used in the operation of said facilities, with  
15 a Florida not-for-profit corporation organized solely for the  
16 purpose of governing and operating the H. Lee Moffitt Cancer  
17 Center and Research Institute. The ~~This~~ not-for-profit  
18 corporation, ~~acting as an instrumentality of the State of~~  
19 ~~Florida~~, shall govern and operate the H. Lee Moffitt Cancer  
20 Center and Research Institute in accordance with the terms of  
21 the agreement between the Florida Board of Education Regents  
22 and the not-for-profit corporation. The not-for-profit  
23 corporation may, with the prior approval of the Florida Board  
24 of Education Regents, create ~~not-for-profit~~ corporate  
25 subsidiaries to fulfill its mission. The not-for-profit  
26 corporation and its subsidiaries shall be corporations  
27 primarily acting as instrumentalities of the state, pursuant  
28 to s. 768.28(2), for purposes of sovereign immunity.The  
29 not-for-profit corporation and its subsidiaries are authorized  
30 to receive, hold, invest, and administer property and any  
31 moneys received from private, local, state, and federal

1 sources, as well as technical and professional income  
2 generated or derived from practice activities of the  
3 institute, for the benefit of the institute and the  
4 fulfillment of its mission. The affairs of the corporation  
5 shall be managed by a board of directors who shall serve  
6 without compensation. The President of the University of  
7 South Florida and the chair of the Florida Board of Education  
8 ~~Regents~~, or his or her designee, shall be directors of the  
9 not-for-profit corporation, together with 5 representatives of  
10 the State University System and no more than 14 nor fewer than  
11 10 directors who are not medical doctors or state employees.  
12 Each director shall have only one vote, shall serve a term of  
13 3 years, and may be reelected to the board. Other than the  
14 President of the University of South Florida and the chair of  
15 the Florida Board of Education ~~Regents~~, directors shall be  
16 elected by a majority vote of the board. The chair of the  
17 board of directors shall be selected by majority vote of the  
18 directors.

19 (2) The Florida Board of Education ~~Regents~~ shall  
20 provide in the agreement with the not-for-profit corporation  
21 for the following:

22 (a) Approval of the articles of incorporation of the  
23 not-for-profit corporation by the Florida Board of Education  
24 ~~Regents~~.

25 (b) Approval of the articles of incorporation of any  
26 ~~not-for-profit~~ corporate subsidiary created by the  
27 not-for-profit corporation.

28 (c) Utilization of lands, ~~hospital~~ facilities, and  
29 personnel by the not-for-profit corporation and its  
30 subsidiaries for research, education, treatment, prevention,  
31 and the early detection of cancer and mutually approved

1 teaching and research programs conducted by the University of  
2 South Florida and ~~or~~ other accredited medical schools or  
3 research institutes.

4 (d) Preparation of an annual postaudit of the  
5 not-for-profit corporation's financial accounts and the  
6 financial accounts of any subsidiaries to be conducted by an  
7 independent certified public accountant. The annual audit  
8 report shall include management letters and shall be submitted  
9 to the Auditor General and the Florida Board of Education  
10 ~~Regents~~ for review. The Florida Board of Education ~~Regents~~,  
11 the Auditor General, and the Office of Program Policy Analysis  
12 and Government Accountability shall have the authority to  
13 require and receive from the not-for-profit corporation and  
14 any subsidiaries or from their independent auditor any detail  
15 or supplemental data relative to the operation of the  
16 not-for-profit corporation or subsidiary.

17 (e) Provision by the not-for-profit corporation and  
18 its subsidiaries of equal employment opportunities to all  
19 persons regardless of race, color, religion, sex, age, or  
20 national origin.

21 (3) The University of South Florida Health Sciences  
22 Center self-insurance program ~~Board of Regents~~ is authorized  
23 to secure ~~comprehensive general liability protection,~~  
24 ~~including~~ professional liability protection, for the  
25 not-for-profit corporation and its subsidiaries pursuant to s.  
26 240.213. The not-for-profit corporation and its subsidiaries  
27 shall be exempt from participation in any property insurance  
28 trust fund established by law, including any property  
29 insurance trust fund established under chapter 284, so long as  
30 the not-for-profit corporation and its subsidiaries maintain  
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1 property insurance protection with comparable or greater  
2 coverage limits.

3 (4) In the event that the agreement between the  
4 not-for-profit corporation and the Florida Board of Education  
5 ~~Regents~~ is terminated for any reason, the Florida Board of  
6 Education Regents shall assume ~~resume~~ governance and operation  
7 of said lands and facilities.

8 (5) The institute shall be administered by a chief  
9 executive officer ~~center director~~ who shall serve at the  
10 pleasure of the board of directors of the not-for-profit  
11 corporation and who shall have the following powers and duties  
12 subject to the approval of the board of directors:

13 (a) The chief executive officer ~~center director~~ shall  
14 establish programs which fulfill the mission of the institute  
15 in research, education, treatment, prevention, and the early  
16 detection of cancer; however, the chief executive officer  
17 ~~center director~~ shall not establish academic programs for  
18 which academic credit is awarded and which terminate in the  
19 conference of a degree without prior approval of the  
20 University of South Florida Board of Trustees based on  
21 criteria established by the Florida Board of Education  
22 Regents.

23 (b) The chief executive officer ~~center director~~ shall  
24 have control over the budget and the dollars appropriated or  
25 donated to the institute from private, local, state, and  
26 federal sources, as well as technical and professional income  
27 generated or derived from practice activities of the  
28 institute. However, professional income generated by  
29 university faculty from practice activities at the institute  
30 shall be shared between the institute and the university as  
31 determined by the chief executive officer ~~center director~~ and

1 the appropriate university dean or vice president ~~department~~  
2 ~~chair~~.

3 (c) The chief executive officer ~~center director~~ shall  
4 appoint members to carry out the research, patient care, and  
5 educational activities of the institute and determine  
6 compensation, benefits, and terms of service. Members of the  
7 institute shall be eligible to hold concurrent appointments at  
8 affiliated academic institutions. University faculty shall be  
9 eligible to hold concurrent appointments at the institute.

10 (d) The chief executive officer ~~center director~~ shall  
11 have control over the use and assignment of space and  
12 equipment within the facilities.

13 (e) The chief executive officer ~~center director~~ shall  
14 have the power to create the administrative structure  
15 necessary to carry out the mission of the institute.

16 (f) The chief executive officer ~~center director~~ shall  
17 have a reporting relationship to the Chancellor of Colleges  
18 and Universities ~~the State University System~~.

19 (g) The chief executive officer ~~center director~~ shall  
20 provide a copy of the institute's annual report to the  
21 Governor and Cabinet, the President of the Senate, the Speaker  
22 of the House of Representatives, and the chair of the Florida  
23 Board of Education ~~Regents~~.

24 (6) The not-for-profit corporation and its  
25 subsidiaries shall have the authority to enter into an  
26 affiliation agreement or agreements with the University of  
27 South Florida for the creation and support of an  
28 interdisciplinary oncology program. The affiliation may  
29 include joint financial and administrative support of the  
30 clinical, research, and educational activities of university  
31 faculty, as well as the sharing of revenues from those

1 activities by the institute and the university in furtherance  
2 of the mission of the institute.

3 (7)~~(6)~~ The board of directors of the not-for-profit  
4 corporation shall create a council of scientific advisers to  
5 the chief executive officer ~~center director~~ comprised of  
6 leading researchers, physicians, and scientists. This council  
7 shall review programs and recommend research priorities and  
8 initiatives so as to maximize the state's investment in the  
9 institute. The council shall be appointed by the board of  
10 directors of the not-for-profit corporation ~~and shall include~~  
11 ~~five appointees of the Board of Regents.~~ Each member of the  
12 council shall be appointed to serve a 2-year term and may be  
13 reappointed to the council.

14 (8)~~(7)~~ In carrying out the provisions of this section,  
15 the not-for-profit corporation and its subsidiaries are not  
16 "agencies" within the meaning of s. 20.03(11).

17 (9)~~(8)~~(a) Records of the not-for-profit corporation  
18 and of its subsidiaries are public records unless made  
19 confidential or exempt by law.

20 (b) Proprietary confidential business information is  
21 confidential and exempt from the provisions of s. 119.07(1)  
22 and s. 24(a), Art. I of the State Constitution. However, the  
23 Auditor General, the Office of Program Policy Analysis and  
24 Government Accountability, and Florida Board of Education  
25 ~~Regents~~, pursuant to their oversight and auditing functions,  
26 must be given access to all proprietary confidential business  
27 information upon request and without subpoena and must  
28 maintain the confidentiality of information so received. As  
29 used in this paragraph, the term "proprietary confidential  
30 business information" means information, regardless of its  
31 form or characteristics, which is owned or controlled by the

1 not-for-profit corporation or its subsidiaries; is intended to  
2 be and is treated by the not-for-profit corporation or its  
3 subsidiaries as private and the disclosure of which would harm  
4 the business operations of the not-for-profit corporation or  
5 its subsidiaries; has not been intentionally disclosed by the  
6 corporation or its subsidiaries unless pursuant to law, an  
7 order of a court or administrative body, a legislative  
8 proceeding pursuant to s. 5, Art. III of the State  
9 Constitution, or a private agreement that provides that the  
10 information may be released to the public; and which is  
11 information concerning:

12           1. Internal auditing controls and reports of internal  
13 auditors;

14           2. Matters reasonably encompassed in privileged  
15 attorney-client communications;

16           3. Contracts for managed-care arrangements, including  
17 preferred provider organization contracts, health maintenance  
18 organization contracts, and exclusive provider organization  
19 contracts, and any documents directly relating to the  
20 negotiation, performance, and implementation of any such  
21 contracts for managed-care arrangements;

22           4. Bids or other contractual data, banking records,  
23 and credit agreements the disclosure of which would impair the  
24 efforts of the not-for-profit corporation or its subsidiaries  
25 to contract for goods or services on favorable terms;

26           5. Information relating to private contractual data,  
27 the disclosure of which would impair the competitive interest  
28 of the provider of the information;

29           6. Corporate officer and employee personnel  
30 information;

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1           7. Information relating to the proceedings and records  
2 of credentialing panels and committees and of the governing  
3 board of the not-for-profit corporation or its subsidiaries  
4 relating to credentialing;

5           8. Minutes of meetings of the governing board of the  
6 not-for-profit corporation and its subsidiaries, except  
7 minutes of meetings open to the public pursuant to subsection  
8 ~~(10)(9)~~;

9           9. Information that reveals plans for marketing  
10 services that the corporation or its subsidiaries reasonably  
11 expect to be provided by competitors;

12           10. Trade secrets as defined in s. 688.002, including  
13 reimbursement methodologies or rates and other materials and  
14 information exempted in s. 240.241(2); or

15           11. The identity of donors or prospective donors of  
16 property who wish to remain anonymous or any information  
17 identifying such donors or prospective donors. The anonymity  
18 of these donors or prospective donors must be maintained in  
19 the auditor's report.

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21 As used in this paragraph, the term "managed care" means  
22 systems or techniques generally used by third-party payors or  
23 their agents to affect access to and control payment for  
24 health care services. Managed-care techniques most often  
25 include one or more of the following: prior, concurrent, and  
26 retrospective review of the medical necessity and  
27 appropriateness of services or site of services; contracts  
28 with selected health care providers; financial incentives or  
29 disincentives related to the use of specific providers,  
30 services, or service sites; controlled access to and  
31 coordination of services by a case manager; and payor efforts

1 to identify treatment alternatives and modify benefit  
2 restrictions for high-cost patient care.

3 ~~(10)(9)~~ Meetings of the governing board of the  
4 not-for-profit corporation and meetings of the subsidiaries of  
5 the not-for-profit corporation at which the expenditure of  
6 dollars appropriated to the not-for-profit corporation by the  
7 state are discussed or reported must remain open to the public  
8 in accordance with s. 286.011 and s. 24(b), Art. I of the  
9 State Constitution, unless made confidential or exempt by law.  
10 Other meetings of the governing board of the not-for-profit  
11 corporation and of the subsidiaries of the not-for-profit  
12 corporation are exempt from s. 286.011 and s. 24(b), Art. I of  
13 the State Constitution.

14 (11) In addition to the continuing appropriation to  
15 the institute pursuant to s. 210.20(2), any appropriation to  
16 the institute in the annual General Appropriations Act shall  
17 be paid directly to the board of directors of the  
18 not-for-profit corporation by warrant drawn by the Comptroller  
19 upon the State Treasury, and shall not be subject to ss.  
20 216.052(7) and 216.301 pursuant to s. 216.351.

21 (12)(a) The Legislature recognizes that to strengthen  
22 and enhance the institute, it is necessary to provide  
23 facilities and support for clinical, teaching, and research  
24 programs in addition to those currently available from  
25 existing revenue sources. It further recognizes that there are  
26 sources of private support that, if matched with state  
27 support, can assist in constructing much-needed facilities,  
28 support clinical, teaching, and research programs, and  
29 strengthen the commitment of citizens and organizations in  
30 promoting the clinical, teaching, and research missions of the  
31 institute. Therefore, it is the intent of the Legislature to

1 establish the H. Lee Moffitt Cancer Center and Research  
2 Institute Challenge Grant Program and to authorize the  
3 not-for-profit corporation and its subsidiaries to solicit  
4 gifts from private sources to be deposited into a challenge  
5 grant account of the university foundation pursuant to ss.  
6 240.2601 and 240.2605 for the construction of facilities and  
7 the support of clinical, research, and teaching programs at  
8 the institute. Such activities are referred to collectively in  
9 this subsection as projects. The not-for-profit corporation,  
10 or its designated subsidiary, shall solicit gifts from private  
11 sources to provide matching funds for eligible projects. For  
12 the purposes of this subsection, private sources of funds  
13 shall not include any federal, state, or local government  
14 funds.

15 (b) Prior to solicitation of gifts for a project to be  
16 funded through the H. Lee Moffitt Cancer Center and Research  
17 Institute Challenge Grant Program, a project must be approved  
18 by the Council of Scientific Advisors. For a project to be  
19 eligible for funding through the H. Lee Moffitt Cancer Center  
20 and Research Institute Challenge Grant Program, the  
21 not-for-profit corporation, or its designated subsidiary,  
22 shall raise a contribution equal to one-half of the total cost  
23 of a project from private sources which shall be matched by a  
24 state appropriation equal to the amount raised for a project,  
25 subject to the annual General Appropriations Act.

26 (c) By September 1 of each year, the Council of  
27 Scientific Advisors may approve a list of projects that meet  
28 all the eligibility requirements for participation in the H.  
29 Lee Moffitt Cancer Center and Research Institute Challenge  
30 Grant Program, and the board of directors of the  
31 not-for-profit corporation may transmit the approved list to

1 the Legislature with a budget request that includes the  
2 recommended schedule necessary to complete each project.

3 (d) The not-for-profit corporation, or its designated  
4 subsidiary, shall transfer to the university foundation  
5 challenge grant account private gifts for projects approved  
6 for funding. The university foundation shall also receive and  
7 hold any appropriated state matching funds. Interest income  
8 accruing in the university foundation shall increase the total  
9 funds available for the approved projects. The challenge grant  
10 account shall not be subject to ss. 216.052(7) and 216.301  
11 pursuant to s. 216.351.

12 (e) After receiving the state matching funds for a  
13 project, the university foundation shall disburse both the  
14 private contributions and the state matching funds to the  
15 board of directors of the not-for-profit corporation for the  
16 benefit of the project.

17 (f) If the state's share of the required match is  
18 insufficient to meet the requirements of the approved project,  
19 the not-for-profit corporation, or its designated subsidiary,  
20 may renegotiate the terms of the contributions with the  
21 donors.

22 (g) Nothing in this subsection shall be interpreted to  
23 prevent the Legislature from providing matching funds for  
24 gifts pursuant to ss. 240.2601 and 240.2605 for the  
25 construction of facilities and the support of research and  
26 teaching programs at the H. Lee Moffitt Cancer Center and  
27 Research Institute or the University of South Florida.

28 Section 2. This act shall take effect July 1, 2002.  
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HOUSE SUMMARY

With respect to the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida: assigns duties of the Board of Regents to the Florida Board of Education; provides for the utilization and governance of lands; revises provisions relating to corporate subsidiaries of the not-for-profit corporation; provides for applicability of sovereign immunity provisions; provides for the receipt of local funds; revises provisions relating to insurance protection; assigns duties of the center director to a chief executive officer; requires approval of the University of South Florida Board of Trustees for establishment of academic programs; authorizes the creation and support of an interdisciplinary oncology program; provides for access to certain research information; provides for appropriations to be paid to the board of directors of the not-for-profit corporation; and authorizes a challenge grant program for the construction of facilities and the support of clinical, research, and teaching programs at the institute.