

on leased property. Furnishings, equipment and other personal property used in the operation of IHMC are generally owned by UWF.

IHMC is currently an agency of the state and, as such, it is subject to all of the restrictions that govern state agencies, including guidelines regarding salary and benefits for employees and requirements regarding competitive bidding for contracts.

III. Effect of Proposed Changes:

SB 1414 changes the organizational structure of IHMC, providing that a new Florida non-profit corporation would oversee the governance and operation of IHMC. The proposed new organizational structure is similar to that of the Florida Alzheimer's Center and Research Institute. The bill provides that the State Board of Education (SBE) must enter into an agreement with a Florida non-profit corporation for the use of facilities of the UWF to be known as the "Florida Institute of Human and Machine Cognition." The non-profit corporation will be created solely for the purpose of governing and operating IHMC. This non-profit corporation:

- Would be an instrumentality of the state and would govern IHMC in accordance with the agreement.
- Would not be an agency of the state within the meaning of s. 20.03(11), F.S.;
- Could enter into contracts with or without competitive bidding; and
- Would be an instrumentality of the state for purposes of sovereign immunity.

Some effects of this structural change on persons working at IHMC would be that the employees of IHMC would be disenrolled from the Florida Retirement System and would work for the non-profit corporation. Salary and benefits would be at the discretion of the corporation.

The bill requires the agreement between the SBE and the non-profit corporation to contain certain provisions or requirements, some of which include:

- Approval by the SBE of the articles of incorporation of the non-profit corporation and any subsidiaries;
- Provision for use by the corporation and its subsidiaries of facilities and personnel for approved teaching/research programs conducted by the UWF or other research entities;
- Preparation of an annual postaudit of the corporation and subsidiaries' financial accounts by an independent CPA, to be submitted to the Auditor General and the SBE for review. The SBE, the Auditor General, and OPPAGA will have the authority to require supplemental information regarding operation of the corporation or any subsidiary; and
- Provision for equal employment opportunities at the corporation and subsidiaries.

The bill provides that, if the agreement between the corporation and the SBE is terminated for any reason, the SBE will assume governance and operation of any IHMC-owned property and equipment; it does not, however, make any provision for transfer of title or ownership of any such property.

IHMC is to be administered by the CEO of the non-profit corporation, who will be appointed by and serve at the pleasure of the board. The CEO is required to:

- Establish programs for IHMC (although programs in which academic credit is awarded or that culminate in conferring a degree would require prior approval of the SBE and the UWF).
- Control the money and budget of IHMC, whether appropriated, donated, or received as income (although income generated by university faculty from activities of IHMC will be shared between IHMC and the university as determined by the CEO and university officials).
- Appoint representatives of IHMC to carry out research and education and establish the compensation, benefits and terms of service of the representatives.
- Control space and equipment and establish IHMC's administrative structure;
- Annually report in writing to the Commissioner of Education with updates on the activities of IHMC and state budget allocation expenditures.
- Provide a copy of IHMC's annual report to government officials, including the Governor, the Senate President and the Speaker of the House.
- Appoint a council of scientific advisers, ratified by the board of directors, which will review programs and recommend research priorities.

A board of directors will manage the corporation. The initial board of directors will consist of the President of UWF and the chair of the SBE (or their designees); four state university representatives, two to be appointed by the governor, one by the Senate President, and one by the Speaker of the House; and nine public representatives, three to be appointed by the Governor, two by the Senate President, two by the Speaker of the House, and two by the chair of the UWF Board of Trustees. After the conclusion of the term of the first board of directors, members of the board of directors will include the President of UWF and the chair of the SBE (or their designees), four representatives of the state universities, and between 9 and 13 members of the public who are not state employees. Except for the President of the UWF and the chair of the SBE, all directors will have 3-year terms. After the initial directors' terms have expired, new directors will be appointed by a majority vote of the directors.

The non-profit corporation is authorized by the bill to receive and administer property and money, together with any income generated by IHMC, for the benefit of IHMC. The non-profit corporation may create subsidiaries to operate IHMC, with the prior approval of the SBE. The bill provides authority for the board of directors to purchase comprehensive general liability insurance for the corporation and subsidiaries.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It is not clear, in light of Art. IX, Section 7 of the Florida Constitution, that the State Board of Education is the correct entity either to enter into the governance agreement with the corporation for IHMC or to provide oversight to the corporation. Although the role of the State Board of Governors has not yet been fully defined, it is likely that, pursuant to this constitutional provision, the Board of Governors will assume university-related responsibilities previously under the jurisdiction of the SBE. Accordingly, it may be appropriate to change references to the SBE in the bill to the Board of Governors.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill should have no annual funding impact, as it only effects a change in the organizational structure of an existing institute. The institute currently receives funding from the state through UWF (\$1,194,937 in FY 2001-2002, and approximately \$1.6 million in FY 2002-2003). The change in organizational structure should not change its state funding requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The language of the bill is very similar to that of the statute establishing the Florida Alzheimer's Center and Research Institute. It may be useful, however, to amend certain sections of the bill to make it clearer that IHMC already exists and is merely being established in law by the bill. In particular, section 2(a) (at page 2, lines 10-14) could be revised to refer to "an agreement for the utilization of facilities of the University of West Florida's Institute for Human and Machine Cognition, including all furnishings, equipment, and other chattels used in the operation of those facilities..." This language change would clarify that the Institute already exists as a unit of UWF.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
