

Subject to approval of the State Board of Education, the not-for-profit corporation may create not-for-profit corporate subsidiaries. There are currently three not-for-profit subsidiaries: a hospital, a cancer screening center, and a foundation.

The agreement between the State Board of Education and the not-for-profit corporation provides, in pertinent part, for the use of hospital facilities and personnel for mutually approved teaching and research programs conducted by the University of South Florida or other accredited medical schools or research institutes.

As an instrumentality of the state, the not-for profit corporation participates in the property insurance trust fund pursuant to chapter 284, F.S. In addition, the agreement authorizes the State Board of Education to secure comprehensive general liability protection, including professional liability protection, for the corporation and its subsidiaries pursuant to s. 1004.24, F.S.

A council of scientific advisers reviews programs and research priorities. The board of directors appoints all but five of the members of the council of scientific advisers with the State Board of Education appointing five members to the council.

III. Effect of Proposed Changes:

This committee substitute amends the powers and duties of the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida. The committee substitute authorizes the not-for-profit corporation to create subsidiaries that are for-profit corporations with approval of the State Board of Education.

The committee substitute expands the purposes of the not-for-profit corporation and its subsidiaries to include use of lands, facilities, and personnel for research, education, treatment, prevention, and the early detection of cancer. The expansion in the operating agreement to provide for the use of lands may represent an attempt to obtain leverage in any property disputes between the University of South Florida and the institute. The expansion of the purposes for which the institute could operate may represent an attempt to conduct research beyond participating with the University of South Florida, other accredited medical schools, or research institutes. This provision, coupled with the creation of for-profit subsidiaries, may represent an attempt by the institute to actively engage with private entities for research and treatment.

The committee substitute provides an opt-out provision from the property insurance coverage under the State Risk Management Trust Fund if the entities maintain property insurance protection with comparable or greater coverage limits. The not-for-profit corporation maintains private property insurance coverage under an umbrella policy of \$10 million, which is greater than the coverage provided by the fire insurance trust fund.

The committee substitute revises the membership of the council of scientific advisers. The committee substitute eliminates the appointment power of the State Board of Education to name five members to the council. Instead, the board of directors of the not-for-profit corporation would appoint all members to the council of scientific advisers.

The committee substitute provides that any appropriation to the institute shall be paid directly to the board of directors of the not-for-profit corporation by warrant drawn by the Chief Financial Officer from the State Treasury. This direct appropriation would include funds appropriated under s. 210.20(2), F.S., the cigarette tax collection trust fund. This direct appropriation would provide the institute with greater independence from the University of South Florida as the appropriations act currently provides for the funds to flow through the University of South Florida with proviso that the funds would be distributed to the institute.

The committee substitute takes effect upon becoming a law.

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:

Section (7), Art. IX of the State Constitution creates the Statewide Board of Governors to govern the state university system. Since the institute is housed on the University of South Florida and shares personnel with the university, it may be more appropriate, if not constitutionally required, that the Board of Governors assume the responsibilities of the State Board of Education with respect to the institute.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The authorization of for-profit subsidiaries may encourage private entities to share research with the institute.

C. Government Sector Impact:

If the not-for-profit corporation were allowed to create for-profit subsidiaries, there may be private corporations that would be more likely to share research with the institute in hopes of making a profit.

If the current not-for-profit subsidiaries were to become for-profit corporations, this could result in the loss of tax-exempt status and require the state to pay taxes on the subsidiaries.

The institute maintains that the opt-out provision from the state property insurance trust fund would annually save the institute approximately \$30,000 in premiums while maintaining greater coverage.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The committee substitute authorizes the not-for-profit corporation to create for-profit subsidiaries with prior approval from the State Board of Education. However, the agreement between the State Board of Education and the not-for-profit corporation authorizes the State Board of Education to approve the articles of incorporation of any not-for-profit subsidiary. Accordingly, the State Board of Education may approve for-profit subsidiaries, but the operating agreement would not provide for State Board of Education approval of the articles of incorporation of the for-profit subsidiaries.

VIII. Amendments:

None.