

By Senator Miller

18-1222-03

See HB 751

1 A bill to be entitled
2 An act relating to the H. Lee Moffitt Cancer
3 Center and Research Institute; amending s.
4 1004.43, F.S.; authorizing the establishment of
5 for-profit subsidiaries of the governing
6 corporation; providing that the contract with
7 the State Board of Education shall permit the
8 use of lands and facilities for research,
9 education, treatment, prevention, and early
10 detection of cancer; authorizing the governing
11 corporation and its subsidiaries to obtain
12 their own property insurance coverage;
13 providing that certain appropriations shall be
14 paid directly to the board of directors of the
15 governing corporation; changing the appointing
16 authority for certain members of the council of
17 scientific advisors; providing an effective
18 date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 1004.43, Florida Statutes, is
23 amended to read:

24 1004.43 H. Lee Moffitt Cancer Center and Research
25 Institute.--There is established the H. Lee Moffitt Cancer
26 Center and Research Institute at the University of South
27 Florida.

28 (1) The State Board of Education shall enter into an
29 agreement for the utilization of the facilities on the campus
30 of the University of South Florida to be known as the H. Lee
31 Moffitt Cancer Center and Research Institute, including all

1 | furnishings, equipment, and other chattels used in the
2 | operation of said facilities, with a Florida not-for-profit
3 | corporation organized solely for the purpose of governing and
4 | operating the H. Lee Moffitt Cancer Center and Research
5 | Institute. This not-for-profit corporation, acting as an
6 | instrumentality of the State of Florida, shall govern and
7 | operate the H. Lee Moffitt Cancer Center and Research
8 | Institute in accordance with the terms of the agreement
9 | between the State Board of Education and the not-for-profit
10 | corporation. The not-for-profit corporation may, with the
11 | prior approval of the State Board of Education, create
12 | ~~not-for-profit~~ corporate subsidiaries to fulfill its mission.
13 | The not-for-profit corporation and its subsidiaries are
14 | authorized to receive, hold, invest, and administer property
15 | and any moneys received from private, local, state, and
16 | federal sources, as well as technical and professional income
17 | generated or derived from practice activities of the
18 | institute, for the benefit of the institute and the
19 | fulfillment of its mission. The affairs of the corporation
20 | shall be managed by a board of directors who shall serve
21 | without compensation. The President of the University of South
22 | Florida and the chair of the State Board of Education, or his
23 | or her designee, shall be directors of the not-for-profit
24 | corporation, together with 5 representatives of the state
25 | universities and no more than 14 nor fewer than 10 directors
26 | who are not medical doctors or state employees. Each director
27 | shall have only one vote, shall serve a term of 3 years, and
28 | may be reelected to the board. Other than the President of the
29 | University of South Florida and the chair of the State Board
30 | of Education, directors shall be elected by a majority vote of
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1 the board. The chair of the board of directors shall be
2 selected by majority vote of the directors.

3 (2) The State Board of Education shall provide in the
4 agreement with the not-for-profit corporation for the
5 following:

6 (a) Approval of the articles of incorporation of the
7 not-for-profit corporation by the State Board of Education.

8 (b) Approval of the articles of incorporation of any
9 not-for-profit corporate subsidiary created by the
10 not-for-profit corporation.

11 (c) Utilization of lands, hospital facilities, and
12 personnel by the not-for-profit corporation and its
13 subsidiaries for research, education, treatment, prevention,
14 and the early detection of cancer and for mutually approved
15 teaching and research programs conducted by the University of
16 South Florida or other accredited medical schools or research
17 institutes.

18 (d) Preparation of an annual financial audit of the
19 not-for-profit corporation's accounts and records and the
20 accounts and records of any subsidiaries to be conducted by an
21 independent certified public accountant. The annual audit
22 report shall include a management letter, as defined in s.
23 11.45, and shall be submitted to the Auditor General and the
24 State Board of Education. The State Board of Education, the
25 Auditor General, and the Office of Program Policy Analysis and
26 Government Accountability shall have the authority to require
27 and receive from the not-for-profit corporation and any
28 subsidiaries or from their independent auditor any detail or
29 supplemental data relative to the operation of the
30 not-for-profit corporation or subsidiary.

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

5 (3) The State Board of Education is authorized to
6 secure comprehensive general liability protection, including
7 professional liability protection, for the not-for-profit
8 corporation and its subsidiaries pursuant to s. 1004.24. The
9 not-for-profit corporation and its subsidiaries shall be
10 exempt from any participation in any property insurance trust
11 fund established by law, including any property insurance
12 trust fund established pursuant to chapter 284, so long as the
13 not-for-profit corporation and its subsidiaries maintain
14 property insurance protection with comparable or greater
15 coverage limits.

16 (4) In the event that the agreement between the
17 not-for-profit corporation and the State Board of Education is
18 terminated for any reason, the State Board of Education shall
19 resume governance and operation of said facilities.

20 (5) The institute shall be administered by a chief
21 executive officer who shall serve at the pleasure of the board
22 of directors of the not-for-profit corporation and who shall
23 have the following powers and duties subject to the approval
24 of the board of directors:

25 (a) The chief executive officer shall establish
26 programs which fulfill the mission of the institute in
27 research, education, treatment, prevention, and the early
28 detection of cancer; however, the chief executive officer
29 shall not establish academic programs for which academic
30 credit is awarded and which terminate in the conference of a
31 degree without prior approval of the State Board of Education.

1 (b) The chief executive officer shall have control
2 over the budget and the dollars appropriated or donated to the
3 institute from private, local, state, and federal sources, as
4 well as technical and professional income generated or derived
5 from practice activities of the institute. However,
6 professional income generated by university faculty from
7 practice activities at the institute shall be shared between
8 the institute and the university as determined by the chief
9 executive officer and the appropriate university dean or vice
10 president.

11 (c) The chief executive officer shall appoint members
12 to carry out the research, patient care, and educational
13 activities of the institute and determine compensation,
14 benefits, and terms of service. Members of the institute shall
15 be eligible to hold concurrent appointments at affiliated
16 academic institutions. University faculty shall be eligible to
17 hold concurrent appointments at the institute.

18 (d) The chief executive officer shall have control
19 over the use and assignment of space and equipment within the
20 facilities.

21 (e) The chief executive officer shall have the power
22 to create the administrative structure necessary to carry out
23 the mission of the institute.

24 (f) The chief executive officer shall have a reporting
25 relationship to the Commissioner of Education.

26 (g) The chief executive officer shall provide a copy
27 of the institute's annual report to the Governor and Cabinet,
28 the President of the Senate, the Speaker of the House of
29 Representatives, and the chair of the State Board of
30 Education.

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

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

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

18 (b) Proprietary confidential business information is
19 confidential and exempt from the provisions of s. 119.07(1)
20 and s. 24(a), Art. I of the State Constitution. However, the
21 Auditor General, the Office of Program Policy Analysis and
22 Government Accountability, and the State Board of Education,
23 pursuant to their oversight and auditing functions, must be
24 given access to all proprietary confidential business
25 information upon request and without subpoena and must
26 maintain the confidentiality of information so received. As
27 used in this paragraph, the term "proprietary confidential
28 business information" means information, regardless of its
29 form or characteristics, which is owned or controlled by the
30 not-for-profit corporation or its subsidiaries; is intended to
31 be and is treated by the not-for-profit corporation or its

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

10 1. Internal auditing controls and reports of internal
11 auditors;

12 2. Matters reasonably encompassed in privileged
13 attorney-client communications;

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

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

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

27 6. Corporate officer and employee personnel
28 information;

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

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

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

10 10. Trade secrets as defined in s. 688.002, including
11 reimbursement methodologies or rates; or

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

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

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

12 (10) In addition to the continuing appropriation to
13 the institute provided in s. 210.20(2), any appropriation to
14 the institute provided in a general appropriations act shall
15 be paid directly to the board of directors of the
16 not-for-profit corporation by warrant drawn by the Chief
17 Financial Officer from the State Treasury.

18 Section 2. This act shall take effect upon becoming a
19 law.

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