HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 751 w/CS H. Lee Moffitt Cancer Center
SPONSOR(S): Galvano
TIED BILLS: **IDEN./SIM. BILLS:** SB 2212

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration	6 Y, 0 N w/CS	Brazzell	Everhart
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends statutes relating to the H. Lee Moffitt Cancer Center and Research Institute (Institute). This bill provides that the Institute may create both for-profit and not-for-profit subsidiaries; requires that agreements between the Institute and the State Board of Education (BOE) also address the Institute's use of land and specifies the purpose for its use of certain BOE resources; exempts the Institute and its subsidiaries from participation in any property insurance trust fund under certain conditions; deletes a requirement that the BOE appoint five members of the Institute's council of scientific advisors; and requires appropriations to be paid directly to the Institute's Board of Directors.

This bill does not appear to have a fiscal impact on state or local governments.

On April 7, 2003, this bill was recommitted to the Committee on State Administration.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[X]
2. Lower taxes?	Yes[]	No[]	N/A[X]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[]	No[]	N/A[X]

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background:

The H. Lee Moffitt Cancer Center and Research Institute (the Institute) is the only National Cancer Institute Comprehensive Cancer Center in the state of Florida. Its mission is to contribute to the prevention and cure of cancer. The Institute was established by the Florida Legislature in 1981. The Institute is located at the University of South Florida (USF) in Tampa. It is established by s. 1004.43, F.S., as a not-for-profit corporation and is governed by a board of directors. The Institute has established three subsidiary boards: the Hospital Board operates an acute care cancer hospital; the Screening Board operates a cancer screening program and other non-acute care cancer facilities and programs; and the Foundation Board conducts fundraising on behalf of and makes contributions to support the Cancer Center, Screening Center, and Moffitt researchers and faculty. According to its most recent annual report, for the 2001-02 fiscal year the Institute had 5,811 admissions and 171,858 outpatient visits.

Currently s. 1004.43(1), F.S., authorizes the Institute to establish subsidiaries with the approval of the State Board of Education, but these may only be of not-for-profit status. According to the Institute, provisions of federal law[1] regarding not-for-profit organizations impair the ability of not-for-profit organizations to administer subsidiaries in partnership with for-profit organizations.

Section 1004.43(2), F.S., specifically requires the State Board of Education to provide, in agreement with the Institute, for the utilization of facilities and personnel by the Institute for teaching and research programs conducted by USF or other accredited medical schools or research institutes.

The Institute currently has a fifty-year lease with USF for an 18 acre parcel of land, on which are located buildings owned by the Institute that the Institute has constructed and/or renovated. The Institute's sublease agreement with the State Board of Education obligates the Institute to maintain "a policy or policies of comprehensive general and excess liability insurance with combined single limits of not less than $5 million" and "a policy or policies of insurance against loss, damage, or injury to or destruction of all or any portion of the facilities resulting from fire, flood, earthquake and extended coverage perils in an amount equal to the full replacement value of the facilities." The Institute has been advised that it must participate in the State Risk Management Trust Fund (ch. 284, Part I, F.S.), but according to the Institute, the coverage provided by this fund falls short of that required by their sublease, and the Institute must purchase additional coverage which duplicates the coverage provided under the State Risk Management Trust Fund. According to the Institute, for the fiscal year 2002-03, the Institute is spending $63,628 for duplicate coverage under the State Risk Management Trust Fund.

[1] Section 501 of the Internal Revenue Code.

Section 1004.43(6), F.S., provides for the establishment of a council of scientific advisors to review programs and recommend research priorities. Five of the members are to be appointees of the State Board of Education. The council averages eleven members.

For fiscal year 2002-2003, the General Appropriations Act appropriated $10,440,335 in General Revenue to the Institute.[2] This appropriation is routed through the Department of Education to the University of South Florida and then to the Institute. According to its most recent annual report, the Institute's total revenues for fiscal year 2001-2002 were $205,999,579.

Proposed changes:

The Institute would be able to establish for-profit as well as not-for profit subsidiaries with the prior approval of the State Board of Education, and the State Board of Education would not be required to approve the for-profit subsidiaries' articles of incorporation. According to representatives of the Institute, this would not impact the Institute's not-for-profit status under Florida or federal law; they cited cancer drug development and the provision of joint health care services with for-profit entities as potential examples of the activities of a for-profit subsidiary.

The State Board of Education would be required to provide in an agreement with the Institute for the Institute's utilization of land as well as facilities and personnel, for clarified purposes of research, education, treatment, prevention, and the early detection of cancer.

The Institute would be exempt from having to participate in state property insurance trust funds as along as comparable or greater insurance protection were obtained by the Institute.

The State Board of Education would no longer appoint members of the Institute's council of scientific advisors.

Any appropriations provided in a general appropriations act would be paid directly to the Institute's Board of Directors rather than routed through other state entities.

C. SECTION DIRECTORY:

Section 1 provides that the H. Lee Moffitt Cancer Center and Research Institute (Institute) may create both for-profit and not-for-profit subsidiaries; requires that agreements between the Institute and the State Board of Education (BOE) also address utilization of land and specifies the purpose for its utilization of certain BOE resources; exempts the Institute and its subsidiaries from participation in any property insurance trust fund under certain conditions; provides that the Institute's board of directors appoint all members of the Institute's council of scientific advisors; and requires appropriations to be paid directly to the Institute's Board of Directors.

Section 2 provides that the bill shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   If the H. Lee Moffitt Cancer Center and Research Institute (Institute) were to choose not to participate in the State Risk Management Trust Fund, that trust fund would receive less revenue. Current revenues paid by the Institute are $63,628. The Institute expects its annual payment to

[2] Specific Appropriation 166AC, HB 27E.

increase to around $100,000 after its newest facility (currently under construction) is placed in service. However, the Trust Fund would no longer bear the liability of insuring these properties.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The Institute could realize additional income from for-profit subsidiaries; however, no estimates can be made at this time.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 751 was amended by the Committee on State Administration on March 24, 2003. This amendment deleted a provision requiring the State Board of Education to appoint five members of the Institute's council of scientific advisors; rather, it provides for the Institute's board of directors to appoint all members of the council of scientific advisors. This bill was reported favorably with a committee substitute.