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

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

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

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

(1) The State Board of Education shall enter into an  
 agreement for the utilization of the facilities on the campus of  
 the University of South Florida to be known as the H. Lee  
 Moffitt Cancer Center and Research Institute, including all  
 furnishings, equipment, and other chattels used in the operation  
 of said facilities, with a Florida not-for-profit corporation  
 organized solely for the purpose of governing and operating the



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31 H. Lee Moffitt Cancer Center and Research Institute. This not-  
32 for-profit corporation, acting as an instrumentality of the  
33 State of Florida, shall govern and operate the H. Lee Moffitt  
34 Cancer Center and Research Institute in accordance with the  
35 terms of the agreement between the State Board of Education and  
36 the not-for-profit corporation. The not-for-profit corporation  
37 may, with the prior approval of the State Board of Education,  
38 create ~~not for profit~~ corporate subsidiaries to fulfill its  
39 mission. The not-for-profit corporation and its subsidiaries are  
40 authorized to receive, hold, invest, and administer property and  
41 any moneys received from private, local, state, and federal  
42 sources, as well as technical and professional income generated  
43 or derived from practice activities of the institute, for the  
44 benefit of the institute and the fulfillment of its mission. The  
45 affairs of the corporation shall be managed by a board of  
46 directors who shall serve without compensation. The President of  
47 the University of South Florida and the chair of the State Board  
48 of Education, or his or her designee, shall be directors of the  
49 not-for-profit corporation, together with 5 representatives of  
50 the state universities and no more than 14 nor fewer than 10  
51 directors who are not medical doctors or state employees. Each  
52 director shall have only one vote, shall serve a term of 3  
53 years, and may be reelected to the board. Other than the  
54 President of the University of South Florida and the chair of  
55 the State Board of Education, directors shall be elected by a  
56 majority vote of the board. The chair of the board of directors  
57 shall be selected by majority vote of the directors.

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



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

62 (b) Approval of the articles of incorporation of any not-  
63 for-profit corporate subsidiary created by the not-for-profit  
64 corporation.

65 (c) Utilization of lands, hospital facilities, and  
66 personnel by the not-for-profit corporation and its subsidiaries  
67 for research, education, treatment, prevention, and the early  
68 detection of cancer and for mutually approved teaching and  
69 research programs conducted by the University of South Florida  
70 or other accredited medical schools or research institutes.

71 (d) Preparation of an annual financial audit of the not-  
72 for-profit corporation's accounts and records and the accounts  
73 and records of any subsidiaries to be conducted by an  
74 independent certified public accountant. The annual audit report  
75 shall include a management letter, as defined in s. 11.45, and  
76 shall be submitted to the Auditor General and the State Board of  
77 Education. The State Board of Education, the Auditor General,  
78 and the Office of Program Policy Analysis and Government  
79 Accountability shall have the authority to require and receive  
80 from the not-for-profit corporation and any subsidiaries or from  
81 their independent auditor any detail or supplemental data  
82 relative to the operation of the not-for-profit corporation or  
83 subsidiary.

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

88 (3) The State Board of Education is authorized to secure  
89 comprehensive general liability protection, including



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90 professional liability protection, for the not-for-profit  
 91 corporation and its subsidiaries pursuant to s. 1004.24. The  
 92 not- for-profit corporation and its subsidiaries shall be exempt  
 93 from any participation in any property insurance trust fund  
 94 established by law, including any property insurance trust fund  
 95 established pursuant to chapter 284, so long as the not-for-  
 96 profit corporation and its subsidiaries maintain property  
 97 insurance protection with comparable or greater coverage limits.

98 (4) In the event that the agreement between the not-for-  
 99 profit corporation and the State Board of Education is  
 100 terminated for any reason, the State Board of Education shall  
 101 resume governance and operation of said facilities.

102 (5) The institute shall be administered by a chief  
 103 executive officer who shall serve at the pleasure of the board  
 104 of directors of the not-for-profit corporation and who shall  
 105 have the following powers and duties subject to the approval of  
 106 the board of directors:

107 (a) The chief executive officer shall establish programs  
 108 which fulfill the mission of the institute in research,  
 109 education, treatment, prevention, and the early detection of  
 110 cancer; however, the chief executive officer shall not establish  
 111 academic programs for which academic credit is awarded and which  
 112 terminate in the conference of a degree without prior approval  
 113 of the State Board of Education.

114 (b) The chief executive officer shall have control over  
 115 the budget and the dollars appropriated or donated to the  
 116 institute from private, local, state, and federal sources, as  
 117 well as technical and professional income generated or derived  
 118 from practice activities of the institute. However, professional  
 119 income generated by university faculty from practice activities



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120 at the institute shall be shared between the institute and the  
121 university as determined by the chief executive officer and the  
122 appropriate university dean or vice president.

123 (c) The chief executive officer shall appoint members to  
124 carry out the research, patient care, and educational activities  
125 of the institute and determine compensation, benefits, and terms  
126 of service. Members of the institute shall be eligible to hold  
127 concurrent appointments at affiliated academic institutions.  
128 University faculty shall be eligible to hold concurrent  
129 appointments at the institute.

130 (d) The chief executive officer shall have control over  
131 the use and assignment of space and equipment within the  
132 facilities.

133 (e) The chief executive officer shall have the power to  
134 create the administrative structure necessary to carry out the  
135 mission of the institute.

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

138 (g) The chief executive officer shall provide a copy of  
139 the institute's annual report to the Governor and Cabinet, the  
140 President of the Senate, the Speaker of the House of  
141 Representatives, and the chair of the State Board of Education.

142 (6) The board of directors of the not-for-profit  
143 corporation shall create a council of scientific advisers to the  
144 chief executive officer comprised of leading researchers,  
145 physicians, and scientists. This council shall review programs  
146 and recommend research priorities and initiatives so as to  
147 maximize the state's investment in the institute. The council  
148 shall be appointed by the board of directors of the not-for-  
149 profit corporation, five of whom shall be approved by ~~and shall~~



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150 ~~include five appointees of~~ the State Board of Education. Each  
151 member of the council shall be appointed to serve a 2-year term  
152 and may be reappointed to the council.

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

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

159 (b) Proprietary confidential business information is  
160 confidential and exempt from the provisions of s. 119.07(1) and  
161 s. 24(a), Art. I of the State Constitution. However, the Auditor  
162 General, the Office of Program Policy Analysis and Government  
163 Accountability, and the State Board of Education, pursuant to  
164 their oversight and auditing functions, must be given access to  
165 all proprietary confidential business information upon request  
166 and without subpoena and must maintain the confidentiality of  
167 information so received. As used in this paragraph, the term  
168 "proprietary confidential business information" means  
169 information, regardless of its form or characteristics, which is  
170 owned or controlled by the not-for-profit corporation or its  
171 subsidiaries; is intended to be and is treated by the not-for-  
172 profit corporation or its subsidiaries as private and the  
173 disclosure of which would harm the business operations of the  
174 not-for-profit corporation or its subsidiaries; has not been  
175 intentionally disclosed by the corporation or its subsidiaries  
176 unless pursuant to law, an order of a court or administrative  
177 body, a legislative proceeding pursuant to s. 5, Art. III of the  
178 State Constitution, or a private agreement that provides that



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179 the information may be released to the public; and which is  
180 information concerning:

181 1. Internal auditing controls and reports of internal  
182 auditors;

183 2. Matters reasonably encompassed in privileged attorney-  
184 client communications;

185 3. Contracts for managed-care arrangements, including  
186 preferred provider organization contracts, health maintenance  
187 organization contracts, and exclusive provider organization  
188 contracts, and any documents directly relating to the  
189 negotiation, performance, and implementation of any such  
190 contracts for managed-care arrangements;

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

195 5. Information relating to private contractual data, the  
196 disclosure of which would impair the competitive interest of the  
197 provider of the information;

198 6. Corporate officer and employee personnel information;

199 7. Information relating to the proceedings and records of  
200 credentialing panels and committees and of the governing board  
201 of the not-for-profit corporation or its subsidiaries relating  
202 to credentialing;

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

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



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

211 11. The identity of donors or prospective donors of  
212 property who wish to remain anonymous or any information  
213 identifying such donors or prospective donors. The anonymity of  
214 these donors or prospective donors must be maintained in the  
215 auditor's report.

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217 As used in this paragraph, the term "managed care" means systems  
218 or techniques generally used by third-party payors or their  
219 agents to affect access to and control payment for health care  
220 services. Managed-care techniques most often include one or more  
221 of the following: prior, concurrent, and retrospective review of  
222 the medical necessity and appropriateness of services or site of  
223 services; contracts with selected health care providers;  
224 financial incentives or disincentives related to the use of  
225 specific providers, services, or service sites; controlled  
226 access to and coordination of services by a case manager; and  
227 payor efforts to identify treatment alternatives and modify  
228 benefit restrictions for high-cost patient care.

229 (9) Meetings of the governing board of the not-for-profit  
230 corporation and meetings of the subsidiaries of the not-for-  
231 profit corporation at which the expenditure of dollars  
232 appropriated to the not-for-profit corporation by the state are  
233 discussed or reported must remain open to the public in  
234 accordance with s. 286.011 and s. 24(b), Art. I of the State  
235 Constitution, unless made confidential or exempt by law. Other  
236 meetings of the governing board of the not-for-profit  
237 corporation and of the subsidiaries of the not-for-profit





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238 corporation are exempt from s. 286.011 and s. 24(b), Art. I of  
239 the State Constitution.

240 (10) In addition to the continuing appropriation to the  
241 institute provided in s. 210.20(2), any appropriation to the  
242 institute provided in a general appropriations act shall be paid  
243 directly to the board of directors of the not-for-profit  
244 corporation by warrant drawn by the Chief Financial Officer from  
245 the State Treasury.

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