



HB 0751

2003  
CS

CHAMBER ACTION

The Committee on State Administration recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

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:



HB 0751

2003  
CS

29 | 1004.43 H. Lee Moffitt Cancer Center and Research  
30 | Institute.--There is established the H. Lee Moffitt Cancer  
31 | Center and Research Institute at the University of South  
32 | Florida.

33 | (1) The State Board of Education shall enter into an  
34 | agreement for the utilization of the facilities on the campus of  
35 | the University of South Florida to be known as the H. Lee  
36 | Moffitt Cancer Center and Research Institute, including all  
37 | furnishings, equipment, and other chattels used in the operation  
38 | of said facilities, with a Florida not-for-profit corporation  
39 | organized solely for the purpose of governing and operating the  
40 | H. Lee Moffitt Cancer Center and Research Institute. This not-  
41 | for-profit corporation, acting as an instrumentality of the  
42 | State of Florida, shall govern and operate the H. Lee Moffitt  
43 | Cancer Center and Research Institute in accordance with the  
44 | terms of the agreement between the State Board of Education and  
45 | the not-for-profit corporation. The not-for-profit corporation  
46 | may, with the prior approval of the State Board of Education,  
47 | create ~~not-for-profit~~ corporate subsidiaries to fulfill its  
48 | mission. The not-for-profit corporation and its subsidiaries are  
49 | authorized to receive, hold, invest, and administer property and  
50 | any moneys received from private, local, state, and federal  
51 | sources, as well as technical and professional income generated  
52 | or derived from practice activities of the institute, for the  
53 | benefit of the institute and the fulfillment of its mission. The  
54 | affairs of the corporation shall be managed by a board of  
55 | directors who shall serve without compensation. The President of  
56 | the University of South Florida and the chair of the State Board



HB 0751

2003  
CS

57 | of Education, or his or her designee, shall be directors of the  
58 | not-for-profit corporation, together with 5 representatives of  
59 | the state universities and no more than 14 nor fewer than 10  
60 | directors who are not medical doctors or state employees. Each  
61 | director shall have only one vote, shall serve a term of 3  
62 | years, and may be reelected to the board. Other than the  
63 | President of the University of South Florida and the chair of  
64 | the State Board of Education, directors shall be elected by a  
65 | majority vote of the board. The chair of the board of directors  
66 | shall be selected by majority vote of the directors.

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

69 | (a) Approval of the articles of incorporation of the not-  
70 | for-profit corporation by the State Board of Education.

71 | (b) Approval of the articles of incorporation of any not-  
72 | for-profit corporate subsidiary created by the not-for-profit  
73 | corporation.

74 | (c) Utilization of lands, hospital facilities, and  
75 | personnel by the not-for-profit corporation and its subsidiaries  
76 | for research, education, treatment, prevention, and the early  
77 | detection of cancer and for mutually approved teaching and  
78 | research programs conducted by the University of South Florida  
79 | or other accredited medical schools or research institutes.

80 | (d) Preparation of an annual financial audit of the not-  
81 | for-profit corporation's accounts and records and the accounts  
82 | and records of any subsidiaries to be conducted by an  
83 | independent certified public accountant. The annual audit report  
84 | shall include a management letter, as defined in s. 11.45, and



HB 0751

2003  
CS

85 shall be submitted to the Auditor General and the State Board of  
86 Education. The State Board of Education, the Auditor General,  
87 and the Office of Program Policy Analysis and Government  
88 Accountability shall have the authority to require and receive  
89 from the not-for-profit corporation and any subsidiaries or from  
90 their independent auditor any detail or supplemental data  
91 relative to the operation of the not-for-profit corporation or  
92 subsidiary.

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

97 (3) The State Board of Education is authorized to secure  
98 comprehensive general liability protection, including  
99 professional liability protection, for the not-for-profit  
100 corporation and its subsidiaries pursuant to s. 1004.24. The  
101 not- for-profit corporation and its subsidiaries shall be exempt  
102 from any participation in any property insurance trust fund  
103 established by law, including any property insurance trust fund  
104 established pursuant to chapter 284, so long as the not-for-  
105 profit corporation and its subsidiaries maintain property  
106 insurance protection with comparable or greater coverage limits.

107 (4) In the event that the agreement between the not-for-  
108 profit corporation and the State Board of Education is  
109 terminated for any reason, the State Board of Education shall  
110 resume governance and operation of said facilities.

111 (5) The institute shall be administered by a chief  
112 executive officer who shall serve at the pleasure of the board



HB 0751

2003  
CS

113 of directors of the not-for-profit corporation and who shall  
114 have the following powers and duties subject to the approval of  
115 the board of directors:

116 (a) The chief executive officer shall establish programs  
117 which fulfill the mission of the institute in research,  
118 education, treatment, prevention, and the early detection of  
119 cancer; however, the chief executive officer shall not establish  
120 academic programs for which academic credit is awarded and which  
121 terminate in the conference of a degree without prior approval  
122 of the State Board of Education.

123 (b) The chief executive officer shall have control over  
124 the budget and the dollars appropriated or donated to the  
125 institute from private, local, state, and federal sources, as  
126 well as technical and professional income generated or derived  
127 from practice activities of the institute. However, professional  
128 income generated by university faculty from practice activities  
129 at the institute shall be shared between the institute and the  
130 university as determined by the chief executive officer and the  
131 appropriate university dean or vice president.

132 (c) The chief executive officer shall appoint members to  
133 carry out the research, patient care, and educational activities  
134 of the institute and determine compensation, benefits, and terms  
135 of service. Members of the institute shall be eligible to hold  
136 concurrent appointments at affiliated academic institutions.  
137 University faculty shall be eligible to hold concurrent  
138 appointments at the institute.



HB 0751

2003  
CS

139 (d) The chief executive officer shall have control over  
140 the use and assignment of space and equipment within the  
141 facilities.

142 (e) The chief executive officer shall have the power to  
143 create the administrative structure necessary to carry out the  
144 mission of the institute.

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

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

151 (6) The board of directors of the not-for-profit  
152 corporation shall create a council of scientific advisers to the  
153 chief executive officer comprised of leading researchers,  
154 physicians, and scientists. This council shall review programs  
155 and recommend research priorities and initiatives so as to  
156 maximize the state's investment in the institute. The council  
157 shall be appointed by the board of directors of the not-for-  
158 profit corporation ~~and shall include five appointees of the~~  
159 ~~State Board of Education~~. Each member of the council shall be  
160 appointed to serve a 2-year term and may be reappointed to the  
161 council.

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



HB 0751

2003  
CS

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

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

190 1. Internal auditing controls and reports of internal  
191 auditors;



HB 0751

2003  
CS

192           2. Matters reasonably encompassed in privileged attorney-  
193 client communications;

194           3. Contracts for managed-care arrangements, including  
195 preferred provider organization contracts, health maintenance  
196 organization contracts, and exclusive provider organization  
197 contracts, and any documents directly relating to the  
198 negotiation, performance, and implementation of any such  
199 contracts for managed-care arrangements;

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

204           5. Information relating to private contractual data, the  
205 disclosure of which would impair the competitive interest of the  
206 provider of the information;

207           6. Corporate officer and employee personnel information;

208           7. Information relating to the proceedings and records of  
209 credentialing panels and committees and of the governing board  
210 of the not-for-profit corporation or its subsidiaries relating  
211 to credentialing;

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

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

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





HB 0751

2003  
CS

220 11. The identity of donors or prospective donors of  
221 property who wish to remain anonymous or any information  
222 identifying such donors or prospective donors. The anonymity of  
223 these donors or prospective donors must be maintained in the  
224 auditor's report.

225

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

238 (9) Meetings of the governing board of the not-for-profit  
239 corporation and meetings of the subsidiaries of the not-for-  
240 profit corporation at which the expenditure of dollars  
241 appropriated to the not-for-profit corporation by the state are  
242 discussed or reported must remain open to the public in  
243 accordance with s. 286.011 and s. 24(b), Art. I of the State  
244 Constitution, unless made confidential or exempt by law. Other  
245 meetings of the governing board of the not-for-profit  
246 corporation and of the subsidiaries of the not-for-profit



HB 0751

2003  
CS

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

249 (10) In addition to the continuing appropriation to the  
250 institute provided in s. 210.20(2), any appropriation to the  
251 institute provided in a general appropriations act shall be paid  
252 directly to the board of directors of the not-for-profit  
253 corporation by warrant drawn by the Chief Financial Officer from  
254 the State Treasury.

255 Section 2. This act shall take effect upon becoming a law.  
256