



CHAMBER ACTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 and the Florida Alzheimer's Center and Research Institute at the University of South Florida; 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; amending s. 1004.445, F.S.; deleting obsolete language; 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



HB 0751

2003
CS

29 | lands and facilities for research, education, treatment,
30 | prevention, and early detection of Alzheimer's disease;
31 | authorizing the governing corporation and its subsidiaries
32 | to obtain their own property insurance coverage; providing
33 | that certain appropriations shall be paid directly to the
34 | board of directors of the governing corporation; changing
35 | the appointing authority for certain members of the
36 | council of scientific advisors; providing an effective
37 | date.

38

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

40

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

43 | 1004.43 H. Lee Moffitt Cancer Center and Research
44 | Institute.--There is established the H. Lee Moffitt Cancer
45 | Center and Research Institute at the University of South
46 | Florida.

47 | (1) The State Board of Education shall enter into an
48 | agreement for the utilization of the facilities on the campus of
49 | the University of South Florida to be known as the H. Lee
50 | Moffitt Cancer Center and Research Institute, including all
51 | furnishings, equipment, and other chattels used in the operation
52 | of said facilities, with a Florida not-for-profit corporation
53 | organized solely for the purpose of governing and operating the
54 | H. Lee Moffitt Cancer Center and Research Institute. This not-
55 | for-profit corporation, acting as an instrumentality of the
56 | State of Florida, shall govern and operate the H. Lee Moffitt



HB 0751

2003
CS

57 | Cancer Center and Research Institute in accordance with the
58 | terms of the agreement between the State Board of Education and
59 | the not-for-profit corporation. The not-for-profit corporation
60 | may, with the prior approval of the State Board of Education,
61 | create ~~not-for-profit~~ corporate subsidiaries to fulfill its
62 | mission. The not-for-profit corporation and its subsidiaries are
63 | authorized to receive, hold, invest, and administer property and
64 | any moneys received from private, local, state, and federal
65 | sources, as well as technical and professional income generated
66 | or derived from practice activities of the institute, for the
67 | benefit of the institute and the fulfillment of its mission. The
68 | affairs of the corporation shall be managed by a board of
69 | directors who shall serve without compensation. The President of
70 | the University of South Florida and the chair of the State Board
71 | of Education, or his or her designee, shall be directors of the
72 | not-for-profit corporation, together with 5 representatives of
73 | the state universities and no more than 14 nor fewer than 10
74 | directors who are not medical doctors or state employees. Each
75 | director shall have only one vote, shall serve a term of 3
76 | years, and may be reelected to the board. Other than the
77 | President of the University of South Florida and the chair of
78 | the State Board of Education, directors shall be elected by a
79 | majority vote of the board. The chair of the board of directors
80 | shall be selected by majority vote of the directors.

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

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



HB 0751

2003
CS

85 (b) Approval of the articles of incorporation of any not-
86 for-profit corporate subsidiary created by the not-for-profit
87 corporation.

88 (c) Utilization of lands, hospital facilities, and
89 personnel by the not-for-profit corporation and its subsidiaries
90 for research, education, treatment, prevention, and the early
91 detection of cancer and for mutually approved teaching and
92 research programs conducted by the University of South Florida
93 or other accredited medical schools or research institutes.

94 (d) Preparation of an annual financial audit of the not-
95 for-profit corporation's accounts and records and the accounts
96 and records of any subsidiaries to be conducted by an
97 independent certified public accountant. The annual audit report
98 shall include a management letter, as defined in s. 11.45, and
99 shall be submitted to the Auditor General and the State Board of
100 Education. The State Board of Education, the Auditor General,
101 and the Office of Program Policy Analysis and Government
102 Accountability shall have the authority to require and receive
103 from the not-for-profit corporation and any subsidiaries or from
104 their independent auditor any detail or supplemental data
105 relative to the operation of the not-for-profit corporation or
106 subsidiary.

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

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



HB 0751

2003
CS

113 professional liability protection, for the not-for-profit
114 corporation and its subsidiaries pursuant to s. 1004.24. The
115 not-for-profit corporation and its subsidiaries shall be exempt
116 from any participation in any property insurance trust fund
117 established by law, including any property insurance trust fund
118 established pursuant to chapter 284, so long as the not-for-
119 profit corporation and its subsidiaries maintain property
120 insurance protection with comparable or greater coverage limits.

121 (4) In the event that the agreement between the not-for-
122 profit corporation and the State Board of Education is
123 terminated for any reason, the State Board of Education shall
124 resume governance and operation of said facilities.

125 (5) The institute shall be administered by a chief
126 executive officer who shall serve at the pleasure of the board
127 of directors of the not-for-profit corporation and who shall
128 have the following powers and duties subject to the approval of
129 the board of directors:

130 (a) The chief executive officer shall establish programs
131 which fulfill the mission of the institute in research,
132 education, treatment, prevention, and the early detection of
133 cancer; however, the chief executive officer shall not establish
134 academic programs for which academic credit is awarded and which
135 terminate in the conference of a degree without prior approval
136 of the State Board of Education.

137 (b) The chief executive officer shall have control over
138 the budget and the dollars appropriated or donated to the
139 institute from private, local, state, and federal sources, as
140 well as technical and professional income generated or derived



HB 0751

2003
CS

141 from practice activities of the institute. However, professional
142 income generated by university faculty from practice activities
143 at the institute shall be shared between the institute and the
144 university as determined by the chief executive officer and the
145 appropriate university dean or vice president.

146 (c) The chief executive officer shall appoint members to
147 carry out the research, patient care, and educational activities
148 of the institute and determine compensation, benefits, and terms
149 of service. Members of the institute shall be eligible to hold
150 concurrent appointments at affiliated academic institutions.
151 University faculty shall be eligible to hold concurrent
152 appointments at the institute.

153 (d) The chief executive officer shall have control over
154 the use and assignment of space and equipment within the
155 facilities.

156 (e) The chief executive officer shall have the power to
157 create the administrative structure necessary to carry out the
158 mission of the institute.

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

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

165 (6) The board of directors of the not-for-profit
166 corporation shall create a council of scientific advisers to the
167 chief executive officer comprised of leading researchers,
168 physicians, and scientists. This council shall review programs



HB 0751

2003
CS

169 and recommend research priorities and initiatives so as to
170 maximize the state's investment in the institute. The council
171 shall be appointed by the board of directors of the not-for-
172 profit corporation ~~and shall include five appointees of the~~
173 ~~State Board of Education~~. Each member of the council shall be
174 appointed to serve a 2-year term and may be reappointed to the
175 council.

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

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

182 (b) Proprietary confidential business information is
183 confidential and exempt from the provisions of s. 119.07(1) and
184 s. 24(a), Art. I of the State Constitution. However, the Auditor
185 General, the Office of Program Policy Analysis and Government
186 Accountability, and the State Board of Education, pursuant to
187 their oversight and auditing functions, must be given access to
188 all proprietary confidential business information upon request
189 and without subpoena and must maintain the confidentiality of
190 information so received. As used in this paragraph, the term
191 "proprietary confidential business information" means
192 information, regardless of its form or characteristics, which is
193 owned or controlled by the not-for-profit corporation or its
194 subsidiaries; is intended to be and is treated by the not-for-
195 profit corporation or its subsidiaries as private and the
196 disclosure of which would harm the business operations of the



HB 0751

2003
CS

197 not-for-profit corporation or its subsidiaries; has not been
198 intentionally disclosed by the corporation or its subsidiaries
199 unless pursuant to law, an order of a court or administrative
200 body, a legislative proceeding pursuant to s. 5, Art. III of the
201 State Constitution, or a private agreement that provides that
202 the information may be released to the public; and which is
203 information concerning:

204 1. Internal auditing controls and reports of internal
205 auditors;

206 2. Matters reasonably encompassed in privileged attorney-
207 client communications;

208 3. Contracts for managed-care arrangements, including
209 preferred provider organization contracts, health maintenance
210 organization contracts, and exclusive provider organization
211 contracts, and any documents directly relating to the
212 negotiation, performance, and implementation of any such
213 contracts for managed-care arrangements;

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

218 5. Information relating to private contractual data, the
219 disclosure of which would impair the competitive interest of the
220 provider of the information;

221 6. Corporate officer and employee personnel information;

222 7. Information relating to the proceedings and records of
223 credentialing panels and committees and of the governing board



HB 0751

2003
CS

224 of the not-for-profit corporation or its subsidiaries relating
225 to credentialing;

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

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

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

234 11. The identity of donors or prospective donors of
235 property who wish to remain anonymous or any information
236 identifying such donors or prospective donors. The anonymity of
237 these donors or prospective donors must be maintained in the
238 auditor's report.

239
240 As used in this paragraph, the term "managed care" means systems
241 or techniques generally used by third-party payors or their
242 agents to affect access to and control payment for health care
243 services. Managed-care techniques most often include one or more
244 of the following: prior, concurrent, and retrospective review of
245 the medical necessity and appropriateness of services or site of
246 services; contracts with selected health care providers;
247 financial incentives or disincentives related to the use of
248 specific providers, services, or service sites; controlled
249 access to and coordination of services by a case manager; and
250 payor efforts to identify treatment alternatives and modify
251 benefit restrictions for high-cost patient care.



HB 0751

2003
CS

252 (9) Meetings of the governing board of the not-for-profit
253 corporation and meetings of the subsidiaries of the not-for-
254 profit corporation at which the expenditure of dollars
255 appropriated to the not-for-profit corporation by the state are
256 discussed or reported must remain open to the public in
257 accordance with s. 286.011 and s. 24(b), Art. I of the State
258 Constitution, unless made confidential or exempt by law. Other
259 meetings of the governing board of the not-for-profit
260 corporation and of the subsidiaries of the not-for-profit
261 corporation are exempt from s. 286.011 and s. 24(b), Art. I of
262 the State Constitution.

263 (10) In addition to the continuing appropriation to the
264 institute provided in s. 210.20(2), any appropriation to the
265 institute provided in a general appropriations act shall be paid
266 directly to the board of directors of the not-for-profit
267 corporation by warrant drawn by the Chief Financial Officer from
268 the State Treasury.

269 Section 2. Section 1004.445, Florida Statutes, is amended
270 to read:

271 1004.445 Florida Alzheimer's Center and Research
272 Institute.--

273 (1) ~~Effective July 1, 2002,~~ The Florida Alzheimer's Center
274 and Research Institute is established at the University of South
275 Florida.

276 (2)(a) The State Board of Education shall enter into an
277 agreement for the utilization of the facilities on the campus of
278 the University of South Florida to be known as the Florida
279 Alzheimer's Center and Research Institute, including all



HB 0751

2003
CS

280 furnishings, equipment, and other chattels used in the operation
281 of those facilities, with a Florida not-for-profit corporation
282 organized solely for the purpose of governing and operating the
283 Florida Alzheimer's Center and Research Institute. This not-for-
284 profit corporation, acting as an instrumentality of the state,
285 shall govern and operate the Florida Alzheimer's Center and
286 Research Institute in accordance with the terms of the agreement
287 between the State Board of Education and the not-for-profit
288 corporation. The not-for-profit corporation may, with the prior
289 approval of the State Board of Education, create ~~not-for-profit~~
290 corporate subsidiaries to fulfill its mission. The not-for-
291 profit corporation and its subsidiaries are authorized to
292 receive, hold, invest, and administer property and any moneys
293 acquired from private, local, state, and federal sources, as
294 well as technical and professional income generated or derived
295 from practice activities of the institute, for the benefit of
296 the institute and the fulfillment of its mission.

297 (b)1. The affairs of the not-for-profit corporation shall
298 be managed by a board of directors who shall serve without
299 compensation. The board of directors shall consist of the
300 President of the University of South Florida and the chair of
301 the State Board of Education, or their designees, 5
302 representatives of the state universities, and no fewer than 9
303 nor more than 14 representatives of the public who are neither
304 medical doctors nor state employees. Each director who is a
305 representative of a state university or of the public shall be
306 appointed to serve a term of 3 years. The chair of the board of



HB 0751

2003
CS

307 directors shall be selected by a majority vote of the directors.
308 Each director shall have only one vote.

309 2. The initial board of directors shall consist of the
310 President of the University of South Florida and the chair of
311 the State Board of Education, or their designees; the five
312 university representatives, of whom one shall be appointed by
313 the Governor, two by the President of the Senate, and two by the
314 Speaker of the House of Representatives; and nine public
315 representatives, of whom three shall be appointed by the
316 Governor, three by the President of the Senate, and three by the
317 Speaker of the House of Representatives. Upon the expiration of
318 the terms of the initial appointed directors, all directors
319 subject to 3-year terms of office under this paragraph shall be
320 appointed by a majority vote of the directors and the board may
321 be expanded to include additional public representative
322 directors up to the maximum number allowed. Any vacancy in
323 office shall be filled for the remainder of the term by majority
324 vote of the directors. Any director may be reappointed.

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

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

329 (b) Approval by the State Board of Education of the
330 articles of incorporation of any not-for-profit corporate
331 subsidiary created by the not-for-profit corporation.

332 (c) Utilization of lands, ~~hospital~~ facilities, and
333 personnel by the not-for-profit corporation and its subsidiaries
334 for research, education, treatment, prevention, and the early



HB 0751

2003
CS

335 detection of Alzheimer's disease and for mutually approved
336 teaching and research programs conducted by the University of
337 South Florida or other accredited medical schools or research
338 institutes.

339 (d) Preparation of an annual postaudit of the not-for-
340 profit corporation's financial accounts and the financial
341 accounts of any subsidiaries to be conducted by an independent
342 certified public accountant. The annual audit report shall
343 include management letters and shall be submitted to the Auditor
344 General and the State Board of Education for review. The State
345 Board of Education, the Auditor General, and the Office of
346 Program Policy Analysis and Government Accountability shall have
347 the authority to require and receive from the not-for-profit
348 corporation and any subsidiaries, or from their independent
349 auditor, any detail or supplemental data relative to the
350 operation of the not-for-profit corporation or subsidiary.

351 (e) Provision by the not-for-profit corporation and its
352 subsidiaries of equal employment opportunities for all persons
353 regardless of race, color, religion, gender, age, or national
354 origin.

355 (4) The State Board of Education is authorized to secure
356 comprehensive general liability protection, including
357 professional liability protection, for the not-for-profit
358 corporation and its subsidiaries, pursuant to s. 1004.24. The
359 not-for-profit corporation and its subsidiaries shall be exempt
360 from any participation in any property insurance trust fund
361 established by law, including any property insurance trust fund
362 established pursuant to chapter 284, so long as the not-for-



HB 0751

2003
CS

363 | profit corporation and its subsidiaries maintain property
364 | insurance protection with comparable or greater coverage limits.

365 | (5) In the event that the agreement between the not-for-
366 | profit corporation and the State Board of Education is
367 | terminated for any reason, the State Board of Education shall
368 | assume governance and operation of the facilities.

369 | (6) The institute shall be administered by a chief
370 | executive officer, who shall be appointed by and serve at the
371 | pleasure of the board of directors of the not-for-profit
372 | corporation, and who shall exercise the following powers and
373 | duties, subject to the approval of the board of directors:

374 | (a) The chief executive officer shall establish programs
375 | that fulfill the mission of the institute in research,
376 | education, treatment, prevention, and early detection of
377 | Alzheimer's disease; however, the chief executive officer may
378 | not establish academic programs for which academic credit is
379 | awarded and which culminate in the conferring of a degree,
380 | without prior approval of the State Board of Education.

381 | (b) The chief executive officer shall have control over
382 | the budget and the moneys appropriated or donated to the
383 | institute from private, local, state, and federal sources, as
384 | well as technical and professional income generated or derived
385 | from practice activities of the institute. However, professional
386 | income generated by university faculty from practice activities
387 | at the institute shall be shared between the institute and the
388 | university as determined by the chief executive officer and the
389 | appropriate university dean or vice president.



HB 0751

2003
CS

390 (c) The chief executive officer shall appoint
391 representatives of the institute to carry out the research,
392 patient care, and educational activities of the institute and
393 establish the compensation, benefits, and terms of service of
394 such representatives. Representatives of the institute shall be
395 eligible to hold concurrent appointments at affiliated academic
396 institutions. University faculty shall be eligible to hold
397 concurrent appointments at the institute.

398 (d) The chief executive officer shall have control over
399 the use and assignment of space and equipment within the
400 facilities.

401 (e) The chief executive officer shall have the power to
402 create the administrative structure necessary to carry out the
403 mission of the institute.

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

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

410 (7) The board of directors of the not-for-profit
411 corporation shall create a council of scientific advisers to the
412 chief executive officer comprised of leading researchers,
413 physicians, and scientists. The council shall review programs
414 and recommend research priorities and initiatives to maximize
415 the state's investment in the institute. The members of the
416 council shall be appointed by the board of directors of the not-
417 for-profit corporation, ~~except for five members who shall be~~



HB 0751

2003
CS

418 ~~appointed by the State Board of Education.~~ Each member of the
419 council shall be appointed to serve a 2-year term and may be
420 reappointed to the council.

421 (8) In carrying out the provisions of this section, the
422 not-for-profit corporation and its subsidiaries are not agencies
423 within the meaning of s. 20.03(11).

424 (9) The following information is confidential and exempt
425 from the provisions of s. 119.07(1) and s. 24, Art. I of the
426 State Constitution:

427 (a) Personal identifying information relating to clients
428 of programs created or funded through the Florida Alzheimer's
429 Center and Research Institute which is held by the institute,
430 University of South Florida, or State Board of Education or by
431 persons who provide services to clients of programs created or
432 funded through contracts with the Florida Alzheimer's Center and
433 Research Institute;

434 (b) Any medical or health records relating to patients
435 which may be created or received by the institute;

436 (c) Materials that relate to methods of manufacture or
437 production, potential trade secrets, potentially patentable
438 material, actual trade secrets as defined in s. 688.002, or
439 proprietary information received, generated, ascertained, or
440 discovered during the course of research conducted by or through
441 the institute and business transactions resulting from such
442 research;

443 (d) The identity of a donor or prospective donor to the
444 Florida Alzheimer's Center and Research Institute who wishes to



HB 0751

2003
CS

445 remain anonymous, and all information identifying such donor or
446 prospective donor;

447 (e) Any information received by the institute in the
448 performance of its duties and responsibilities which is
449 otherwise confidential and exempt by law; and

450 (f) Any information received by the institute from a
451 person from another state or nation or the Federal Government
452 which is otherwise confidential or exempt pursuant to that
453 state's or nation's laws or pursuant to federal law.

454

455 Any governmental entity that demonstrates a need to access such
456 confidential and exempt information in order to perform its
457 duties and responsibilities shall have access to such
458 information and shall otherwise keep such information
459 confidential and exempt. This section is subject to the Open
460 Government Sunset Review Act of 1995 in accordance with s.
461 119.15 and shall stand repealed on October 2, 2006, unless
462 reviewed and saved from repeal through reenactment by the
463 Legislature.

464 (10) Any appropriation to the institute provided in a
465 general appropriations act shall be paid directly to the board
466 of directors of the not-for-profit corporation by warrant drawn
467 by the Chief Financial Officer from the State Treasury.

468 Section 3. This act shall take effect upon becoming a law.
469