

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 0077A H. Lee Moffitt Cancer Center/Johnnie Bryars Byrd, Sr., Alzheimer's Center
SPONSOR(S): Galvano
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration (Workshop)</u>	<u></u>	<u>Brazzell</u>	<u>Everhart</u>
2) <u></u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends statutes relating to the H. Lee Moffitt Cancer Center and Research Institute (Cancer Institute) and the Florida Alzheimer's Center and Research Institute, which is renamed the Johnnie Bryars Byrd, Sr., Alzheimer's Center and Research Institute (Alzheimer's Center). This bill provides that the Cancer Institute and Alzheimer's Center each may create both for-profit and not-for-profit subsidiaries; requires that agreements that the Cancer Institute and Alzheimer's Center each have with the State Board of Education (BOE) also address the Cancer Institute's and Alzheimer's Center's use of land and specifies the purpose for their use of certain BOE resources; exempts the Cancer Institute and Alzheimer's Center and their subsidiaries from participation in any property insurance trust fund under certain conditions; deletes a requirement that the BOE appoint five members of the Cancer Institute's and Alzheimer's Center's councils of scientific advisors; and requires appropriations to be paid directly to the Cancer Institute's and Alzheimer's Center's Board of Directors.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

This bill allows non-profit entities authorized by statute to create for-profit subsidiaries.

B. EFFECT OF PROPOSED CHANGES:

Background:

H. Lee Moffitt Cancer Center and Research Institute

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 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 create agreements for the Institute's use of USF facilities and personnel for teaching and research programs conducted by USF or certain other institutions.

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.

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. 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.

Florida Alzheimer's Center and Research Institute

The Florida Alzheimer's Center and Research Institute (Alzheimer's Center) was established at the University of South Florida effective July 1, 2002. The Alzheimer's Center is to provide for research, education, treatment, prevention, and early detection of Alzheimer's disease. The board of directors has been appointed and is preparing to begin the search for the Alzheimer's Center's director; a council of scientific advisors has also been appointed. The Alzheimer's Center is also preparing for the groundbreaking for the construction of its facility.

Currently s. 1004.445(2)(a), F.S., authorizes the Alzheimer's Center to establish subsidiaries with the approval of the State Board of Education, but these may only be of not-for-profit status.

Section 1004.445(3)(c), 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 Alzheimer's Center for teaching and research programs conducted by USF or other accredited medical schools or research institutes. The State Board of Education may also secure comprehensive general liability protection for the Alzheimer's Center, per s. 1004.445(4).

The Alzheimer's Center is directed by s. 1004.445(7) to establish a council of scientific advisors, five members of which are to be appointed by the State Board of Education.

Proposed changes:

The Florida Alzheimer's Center and Research Institute would be renamed the Johnnie Bryars Byrd, Sr., Alzheimer's Center and Research Institute. The Cancer Institute and Alzheimer's Center 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 Cancer Institute, this would not impact the Cancer 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 Cancer Institute's for-profit subsidiaries would be prohibited from competing with other for-profit providers of radiation therapy services.

The State Board of Education would be required to provide in agreements with the Cancer Institute and Alzheimer's Center for the Cancer Institute's and Alzheimer's Center's utilization of land as well as facilities and personnel, for clarified purposes of research, education, treatment, prevention, and the early detection of the diseases addressed by each organization.

The Cancer Institute and Alzheimer's Center would be exempt from having to participate in state property insurance trust funds as long as comparable or greater insurance protection were obtained by the Cancer Institute and Alzheimer's Center.

The State Board of Education would no longer appoint members of the Cancer Institute's and Alzheimer's Center's councils of scientific advisors.

Any appropriations provided in a general appropriations act would be paid directly to the Cancer Institute and Alzheimer's Center'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 (Cancer Institute) may create both for-profit and not-for-profit subsidiaries and limits the competitive scope of for-profit subsidiaries; requires that agreements between the Cancer 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 Cancer 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 Cancer Institute's council of scientific advisors; and requires appropriations to be paid directly to the Cancer Institute's Board of Directors.

Section 2 provides that the Florida Alzheimer's Center and Research Institute is renamed the Johnnie Bryars Byrd, Sr., Alzheimer's Center and Research Institute (Alzheimer's Center). It provides that the Alzheimer's Center may create both for-profit and not-for-profit subsidiaries; requires that agreements between the Alzheimer's Center 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 Alzheimer's Center and its subsidiaries from participation in any property insurance trust fund under certain conditions; provides that the Alzheimer's Center's board of directors appoint all members of the Alzheimer's Center's council of scientific advisors; and requires appropriations to be paid directly to the Alzheimer's Center's Board of Directors.

Section 3 provides that laws amended by this act and in the 2003 Regular Session of the Legislature shall be construed as if they had been enacted at the same session of the Legislature.

Section 4 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 (Cancer 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 Cancer Institute expects its annual payment to 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 Cancer Institute and Alzheimer's Center could realize additional income from for-profit subsidiaries; however, no estimates can be made at this

time. Private sector providers of those services also provided by the Cancer Institute's and the Alzheimer Center's for-profit subsidiaries could experience some competition.

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: With the exception of section 3, this bill is identical to HB 751 from the 2003 regular session, as passed by the House of Representatives. HB 751 was passed by the House of Representatives by a vote of 113-0. The message was referred to several Senate committees and died in the Senate Committee on Education.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A.