

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 6-E  
SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senators Atwater and Klein  
SUBJECT: Establishment of a Biomedical Research Institution and Campus  
DATE: October 21, 2003 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Maclure	CM	Favorable/CS
2.	_____	_____	AP	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The committee substitute provides for the creation of the Scripps Florida Funding Corporation to enter into a contract with The Scripps Research Institute to establish a state-of-the-art biotechnology research institute and campus in this state. The funding for the contract is provided by \$310 million of the \$543.5 million in federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003. The Scripps Research Institute's Florida operation will be required to repay the lesser of \$155 million or the total amount disbursed to the Biomedical Research Trust Fund.

This committee substitute creates section 288.955, Florida Statutes, and amends s. 403.973, Florida Statutes.

## II. Present Situation:

The Scripps Research Institute (TSRI) on October 9, 2003, announced plans to expand its operations by establishing a science facility in Palm Beach County.<sup>1</sup> In its announcement, TSRI said that the institute will focus on biomedical research, technology development, and drug design, and that its decision to expand in Florida is the result of months of discussions with the Governor and state and local officials. At the same time, the Governor proposed to use \$310 million of the economic stimulus funds allocated to Florida by the federal government to finance TSRI's expansion.<sup>2</sup> Palm Beach County has agreed to provide up to \$200 million to provide

<sup>1</sup> *TSRI Plans to Open Major Science Center in Palm Beach County, Florida*, available at [http://www.scripps.edu/newsandviews/e\\_20031013/news.html](http://www.scripps.edu/newsandviews/e_20031013/news.html), last visited October 13, 2003.

<sup>2</sup> Governor Jeb Bush, *Florida's New Frontier*, October 8, 2003.

TSRI with satisfactory land, temporary facilities, and permanent laboratory facilities for new operations in the county.<sup>3</sup>

### **The Scripps Research Institute<sup>4</sup>**

The Scripps Research Institute is one of the world's largest private, non-profit biomedical research organizations in the world. It is located in La Jolla, California, a suburb of San Diego. Its existing facilities include 14 laboratory buildings with more than 1 million square feet of space. The TSRI's staff includes more than 270 professors, 800 postdoctoral fellows, 1,500 laboratory technicians, administrative and support personnel, and 126 Ph.D. students.

The Scripps Research Institute's facilities contain a variety of computers, including a Cray supercomputer. Research is further supported by X-ray crystallography laboratories, high performance NMR spectrometry including a 900 MHz instrument, electron microscopy, optical spectroscopy, a centralized DNA sequencing laboratory, and a fluorescence activated cell sorting facility.

Researchers at TSRI focus primarily on the following seven fields of study: cell biology, chemistry, immunology, molecular biology, molecular and experimental medicine, neurobiology, and neuropharmacology. According to TSRI, its researchers are actively investigating biological and chemical aspects of more than 40 diseases, including AIDS, alcoholism, Alzheimer's disease, cancer, dementia, depression, diabetes, genetic diseases, Sjogren's syndrome, sleep disorders, and diseases involving neural and muscular degeneration.

TSRI also maintains several education outreach programs including the High School Student Research Education Program; the Middle/High School Science Teacher Summer Research Program; and the Undergraduate Summer Research Internship Program.

The majority of the TSRI's approximately \$280 million operating budget comes from grants from the National Institutes of Health and other federal agencies, through collaborative partnerships with pharmaceutical companies, and through philanthropic support from foundations, health-related associations, and individuals. In addition, funding is derived from licensing technology to private industry.

More information about TSRI and its staff and scientific research is available on the institute's website, <http://www.scripps.edu>.

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<sup>3</sup> Audio tape of an emergency meeting of the Palm Beach County Board of County Commissioners on October 14, 2003.

<sup>4</sup> The information in this section of the staff analysis is a compilation of information from promotional materials and the website of The Scripps Research Institute.

## **Projected Economic Impact**

The Governor's office released a report estimating the economic impact of the creation of a branch of The Scripps Research Institute (TSRI) in Florida.<sup>5</sup> The report, prepared by a private economic consulting firm, contains economic impact statistics of the Florida Institute, as well as the economic impact of a biotech/pharmaceutical technology cluster that may develop around the new TSRI facility.<sup>6</sup>

### ***Scripps Florida Economic Impact***

The report summarizes the potential economic impact of a Florida branch of TSRI as:

- An average of 2,777 new employment positions during the first 15 years of operation, but the employment impact grows steadily over the period and by the 15<sup>th</sup> year the direct, indirect and induced economic impacts support nearly 6,500 jobs.
- Additional labor income that averages \$106 million per year over the first 15 years, and provides total additional income of \$1.6 billion for the entire 15-year period.
- Additional state and local revenues (from the resulting expansion in economic activity) of \$211 million over the entire 15-year period.
- Additional Gross State Product ... of \$3.2 billion over the first 15-year period.<sup>7</sup>

### ***Biotech/Pharmaceutical Technology Cluster Impact***

The report also includes the projected economic impact of a biotech/pharmaceutical technology cluster similar to the cluster that developed around TSRI's existing facility in La Jolla, California. The report summarizes the potential economic impact of the cluster as:

- An average of 8,260 new employment positions during the first 15 years of operation, but the employment impact grows steadily over the period and by the 15<sup>th</sup> year the direct, indirect and induced economic impacts support nearly 44,300 jobs.
- Additional labor income that averages \$396.5 million per year over the first 15 years, and provides total additional income of \$5.9 billion for the entire 15-year period.
- Additional state and local revenues (from the resulting expansion in economic activity) of \$536 million over the entire 15-year period.
- Additional Gross State Product that averages \$594 million per year over 15 years and represents an additional \$8.9 billion in economic activity over the entire 15-year period.<sup>8</sup>

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<sup>5</sup> J. Antonio Villamil and Robert D. Cruz, The Washington Economics Group, Inc., *The Economic Impact of Scripps Florida Biotech Research Institute*, October 9, 2003.

<sup>6</sup> The economic impact figures have not been verified by committee staff.

<sup>7</sup> Villamil and Cruz, *supra* note 5 at p. 2.

### **Jobs and Growth Tax Reconciliation Act of 2003**

The federal Jobs and Growth Tax Reconciliation Act of 2003 (the Act) disbursed \$20 billion to the states for temporary fiscal relief.<sup>9</sup> These funds are commonly referred to as the federal economic stimulus funds. Florida's share of these funds is \$947,568,000.<sup>10</sup> Under s. 401(a) of the Act, \$404,085,000 of the economic stimulus funds must be used to increase the federal medical assistance percentage (FMAP). Under s. 401(b) of the Act, the remaining \$543,483,000 the economic stimulus funds must be used to provide "essential government services" and may only be used for the "types of expenditures permitted under the most recently approved budget for the State."<sup>11</sup> The Act does not define what an "essential government service" is or the "types of expenditures permitted under the most recently approved budget for the State." No penalty is provided in the Act for the unauthorized use of the economic stimulus funds.

### **Florida's Health and Biotechnology Environment**

According to materials from BioFlorida, a trade association of Florida biotechnology industries:

Florida is the nation's fourth largest populated state and is third in consumption of pharmaceutical products. The Florida health and biotechnology industry encompasses all entities operating in the state whose business activities involve life science, including medical research and discovery, device and pharmaceutical manufacturing, education, service, and the manufacture and sale of related products.

The University of Florida is the largest research facility in the Southeast. The University of Miami School of Medicine's medical center is ranked fifth in the nation in sponsored research. The University of Florida is ranked 19th in the receipt of biomedical research and development funding. Technology Transfer

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<sup>8</sup> Villamil and Cruz, *supra* note 5 at p. 3.

<sup>9</sup> Jobs and Growth Tax Reconciliation Act of 2003, Pub. L. No. 108-27, s. 401(b).

<sup>10</sup> Federal Funds Information For States, *Issue Brief 03-28: Some Questions and Answers on Fiscal Relief*, May 30, 2003, p. 5.

<sup>11</sup> Section 401 of the Act states in part:

(d) USE OF PAYMENT-

(1) IN GENERAL- Subject to paragraph (2), a State shall use the funds provided under a payment made under this section for a fiscal year to--

(A) provide essential government services; or

(B) cover the costs to the State of complying with any Federal intergovernmental mandate (as defined in section 421(5) of the Congressional Budget Act of 1974) to the extent that the mandate applies to the State, and the Federal Government has not provided funds to cover the costs.

(2) LIMITATION- A State may only use funds provided under a payment made under this section for types of expenditures permitted under the most recently approved budget for the State.

(e) CERTIFICATION- In order to receive a payment under this section for a fiscal year, the State shall provide the Secretary of the Treasury with a certification that the State's proposed uses of the funds are consistent with subsection (d).

Business Magazine has ranked both universities in the top 25 with licenses linked to new research funding.<sup>12</sup>

According to statistics compiled by Enterprise Florida, Inc., 605,680 people were employed in the state's life sciences industries, earning an average wage of \$40,566 in 2001. (See the table below for additional information.)

Description	Companies	Employees	Average Annual Wage	Total Payroll (\$ millions)
Research and Development in the Physical, Engineering, and Life Sciences	601	10,254	\$63,777	\$654
Pharmaceutical and Medicine Manufacturing	89	4,272	\$53,638	\$229.1
Medical Device Manufacturing	1,016	23,194	\$40,848	\$947.4
Health Care	30,421	567,960	\$40,038	\$22,739.7
<b>Total all Life Sciences</b>	<b>32,127</b>	<b>605,680</b>	<b>\$40,566</b>	<b>\$24,570.2</b>

Source: Enterprise Florida, Inc., Florida's Life Sciences Industry, Companies, Employment, and Wages, 2001.

### Biomedical Research Trust Fund

The Biomedical Research Trust Fund is administered by the Department of Health for the purpose of funding the James and Esther King Biomedical Research Program from proceeds of the settlement of tobacco litigation.<sup>13</sup> The James and Esther King Biomedical Research Program funds grants and fellowships for research relating to the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke and pulmonary disease. Section 20.435(1)(h)3., F.S., provides that the Biomedical Research Trust Fund will be terminated July 1, 2004.

### Expedited Permitting

Section 403.973, F.S., creates an expedited permitting and comprehensive plan amendment process for certain economic development projects. Under the expedited permitting process, regional permit action teams review permit applications and comprehensive plan amendments submitted by businesses creating at least 100 jobs or at least 50 jobs in certain rural areas, on the request of a county or municipality for businesses creating at least 10 jobs, and businesses in brownfield areas.

<sup>12</sup> BioFlorida, *Florida's Health and Biotechnology Environment*, available at <http://www.bioflorida.com/insert.php?filnavn=about.html>, last visited October 14, 2003.

<sup>13</sup> See ss. 20.435(1)(h), 215.5601, and 215.5602, F.S.

### **Administrative Hearings**

Challenges to expedited permitting are authorized under s. 120.574, F.S. Such challenges to expedited permitting upon agreement of the parties may be held in a summary proceeding within 30 days of the agreement.

### **III. Effect of Proposed Changes:**

The committee substitute provides for the creation of the Scripps Florida Funding Corporation (funding corporation) to enter into a contract with The Scripps Research Institute (TSRI) to establish a state-of-the-art biotechnology research campus in this state. The funding for the contract is provided by a \$310 million appropriation in the bill from the \$543.5 million in federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003.

#### **Flow of Funds**

The committee substitute proposes that the Office of Tourism, Trade, and Economic Development (OTTED) will be the initial recipient of the \$310 million appropriation and will disburse the funds to the funding corporation pursuant to a funding agreement. The purpose of the Scripps Florida Funding Corporation (funding corporation) is to receive a lump-sum payment of \$310 million guaranteeing that a funding source will be available for period disbursements to TSRI's Florida operation over a seven-year period. Undisbursed funds held by the funding corporation will be invested by the State Board of Administration.

#### **Governance of Funding Corporation**

The committee substitute authorizes the funding corporation as a private, not-for-profit corporation. The board of directors of the funding corporation will consist of nine voting members. The Governor, the President of the Senate, and the Speaker of the House of Representatives will appoint three board members each. The director of OTTED will serve as an ex-officio non-voting member. The chair and vice chair of the board will be selected from among the board members. The board members will be appointed for staggered two-year terms and may serve for no more than two terms. The Governor, the President of the Senate, and the Speaker of the House of Representatives will fill vacancies on the board based on who initially appointed the board member creating the vacancy. Board members serve at the pleasure of the officer appointing the member. The corporation is subject to public records laws and public meeting laws in chs. 119 and 286, F.S., respectively.

Certain board decisions, including approval of a contract with TSRI, contract amendments, the disbursement of funds, authorization for the use of state funds outside of Florida, and the removal of the chair and vice chair of the board, must be approved by seven of the nine board members. Other board decisions will require simple majority votes. Board members will not be authorized to vote by proxy. Board members, however, are authorized to vote if they are in attendance at the board meeting in person or through means of electronic communication. OTTED will provide administrative services and support to the funding corporation upon request.

## **Accountability of Funding Corporation Members**

Each board member has a fiduciary duty to the people of the state to ensure that the funds disbursed to the board are used as prescribed by law and the contract with TSRI. Each board member must also file a disclosure of financial interests. Board members are prohibited from having a material relationship with TSRI for a period of five years before to five years after serving as a member of the board. The existence of a prohibited relationship is a first-degree misdemeanor. The board members serve without compensation.

## **Required Contract/Statutory Provisions**

The committee substitute specifies that, at a minimum, the contract between the funding corporation and TSRI must contain certain provisions and the committee substitute also prescribes certain statutory requirements:

- A schedule for the disbursement of funds.
- Requirement for the submission of a strategic plan.
- A prohibition of the establishment of TSRI research facilities outside of Florida or California for the lesser of 15 years or until the repayment of funds owed to the state.
- Requirements for Florida residents to be given preference in hiring decisions.
- Requirements that TSRI be an equal opportunity employer.
- Requirements that TSRI comply with the Office of Supplier Diversity contracting requirements and local ordinances.
- A requirement that TSRI participate in recruitment activities in at least seven Florida public universities and seven community colleges across the state every year for the duration of the contract.
- A requirement that TSRI advertise employment opportunities on the Agency for Workforce Innovation website.
- A requirement that TSRI make purchases from Florida vendors when cost effective.
- A requirement that TSRI use its best efforts to collaborate with the state's research institutions and public and private post secondary institutions.
- A requirement that TSRI establish accredited science degree programs.
- A requirement that TSRI create internship programs for educators, high school students, and undergraduate and graduate students.
- A requirement to produce annual reports accounting for the use of state funds and progress toward meeting performance measures.
- A requirement that Scripps must create a specific number of jobs per year within 25 percent of the requirement. Scripps, however, must have no fewer than 545 positions by the end of the seventh year.
- A requirement that at least \$45 million of the funds disbursed be used for the purchase of equipment and the maintenance of equipment.
- An authorization for the Office of Program Policy Analysis and Government Accountability to inspect TSRI's records.
- A requirement for TSRI to maintain liability insurance.

- A prohibition on the use of state funds outside of Florida.
- A requirement that TSRI use at least 20 percent of all its non-state research dollars in Florida by 2011.
- A prohibition on the use of state funds to lobby the state or its political subdivisions.
- Provisions governing the ownership of property.
- Provisions for the repayment of state funds.
- Provisions governing the disposition of property in the event of a breach of contract.
- Provisions for the reduction or elimination of funding if TSRI fails to continue operating in this state or is in material breach or default of the contract.

### **Performance Measures**

The contract between the funding corporation and TSRI must also contain the following performance measures:

- Minimum employment and average salary requirements.
- The dollar value of federal research grants.
- Minimum percentages of the total non-state research dollars received by TSRI that must be used to conduct research in this state.
- Minimum number of patents to be obtained.
- Minimum number and value of licensing agreements to be obtained by TSRI.
- Minimum amount of research to result in commercial applications.
- Minimum number of agreements reached and maintained with research institutions and colleges and universities in this state.
- Minimum number of collaborative partnerships established and maintained with businesses in this state.
- Minimum amount of funding to be received from sources other than the State of Florida.
- Minimum number of spin off businesses created.
- Minimum number of businesses recruited to the state.

### **Funding Corporation's Reporting Requirements**

By December 1 of each year, the funding corporation must provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The annual report must include the following information.

- A description of the corporation's activities regarding the management and enforcement of the contract with TSRI.
- An accounting of funds disbursed and the satisfaction of deliverables in the contract.
- An accounting of the funding corporation's funds.
- TSRI's job-creation statistics in Florida.



- A description of economic activity generated by TSRI's activities in Florida.
- Assessment of TSRI's achievement of the projected return on investment to the state.
- A financial audit report of TSRI regarding its expenditures of state funds conducted by an independent certified public accountant.
- A compliance and financial audit of the funding corporation's accounts and records conducted by an independent certified public accountant in accordance with the rules of the Auditor General.
- An assessment of TSRI's achievement of performance measures.

### **Legislative Oversight of Funding Corporation**

The committee substitute proposes that the funding corporation will be overseen by a Joint Legislative Committee on Biomedical Investment Oversight. The joint committee will be comprised of three senators and three members of the House of Representatives. The joint committee will monitor the funding corporation's contract with TSRI and other issues related to biotechnology, health, and science.

### **Repayment of Funds**

The Scripps Research Institute must repay the lesser of \$155 million or the total amount of funds advanced to it under its contract with the funding corporation to the Biomedical Research Trust Fund. The payments will be made in 15 equal annual installments beginning in 2012. However, seven of the nine board members may decide to delay the payments if the payments would jeopardize TSRI's ability to operate. Payments must begin before 2012 if TSRI is able to do so without jeopardizing its operations.

In any event, TSRI will be required to repay the state the total amount of disbursements it receives from the funding corporation if it ceases to operate in Florida before 2019.

### **Timetable**

The Governor, the President of the Senate, and the Speaker of the House of Representatives must make initial appointments to the board by November 30, 2003. The Office of Tourism, Trade, and Economic Development and the funding corporation must negotiate a funding agreement by December 15, 2003. By January 1, 2004, the \$310 million appropriation must be disbursed to the funding corporation. At least two weeks before the contract between TSRI and the funding corporation may be executed, the contract and TSRI's organizational plan for the establishment of a biotechnology research campus must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The funding corporation and TSRI have until March 15, 2004, to negotiate and execute a contract with the requisite performance measures and contract provisions. Disbursements from the funding corporation to TSRI will be made over a seven-year period beginning in the 2004 calendar year. The disbursement of all funds payable to TSRI under the contract must be completed by December 31, 2010. Any undisbursed funds remaining after December 31, 2010, must be paid to the Biomedical Research Trust Fund of the Department of Health.

### **State and Funding Corporation Liability**

The committee substitute provides that the disbursement of funds is not a debt or liability of the state. The committee substitute further provides that the disbursement of funds will not subject the state or the funding corporation to liability related to the research activities and research products of TSRI.

### **OPPAGA Audits**

By January 1, 2006, and January 1, 2008, the Office of Program Policy and Government Accountability must conduct a performance audit of OTTED, the funding corporation, and TSRI. The audits must address the following issues:

- OTTED's oversight of funds appropriated to fund TSRI.
- The funding corporation's performance in managing and enforcing the contract with TSRI.
- The funding corporation's compliance with the law authorizing funding for TSRI and its contract with TSRI.
- TSRI's performance under the contract.
- Economic activity generated by funding provided to TSRI through the contract with the funding corporation.
- Interaction between TSRI and state educational institutions.

The audit report due by January 1, 2008, shall also recommend whether the Legislature should retain statutory authority for the funding corporation.

### **Expedited Permitting and Administrative Challenges**

The committee substitute expressly provides that the construction of the TSRI Florida facility is entitled to expedited permitting under s. 403.973, F.S. Challenges to permitting decisions must be held within 30 days of a party's request for a summary proceeding.

### **Effective Date**

The committee substitute takes effect upon becoming a law.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

The committee substitute specifies that the Scripps Florida Funding Corporation is subject to the provisions of s. 24, Art. I, of the State Constitution and ch. 119, F.S., relating to public records, and ch. 286, F.S., relating to public meetings.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The committee substitute provides an appropriation of \$310 million to the Office of Tourism, Trade, and Economic Development from funds provided to the state under the federal Jobs and Growth Tax Reconciliation Act of 2003.

B. Private Sector Impact:

The Scripps Research Institute will receive funding for facilities and initial staffing for a state-of-the-art biotechnical research campus in Palm Beach County.

C. Government Sector Impact:

The Office of Tourism, Trade, and Economic Development will be required to provide administrative support to the Scripps Florida Funding Corporation (funding corporation) upon request. No provision is made in the committee substitute for funding the administrative, travel, legal, or other expenses of the board of the funding corporation.

Board members of the funding corporation will be required to organize a not-for-profit corporation, negotiate a \$310 million contract with The Scripps Research Institute (TSRI), disburse funds, monitor and enforce compliance with the contract, and provide annual reports to the Governor and Legislature. The board is authorized to spend up to \$200,000 per year to hire or contract for staff to assist it with its responsibilities.

The State Board of Administration will be required to contract with the funding corporation for the investment of funds not disbursed to TSRI.

The Board of the Palm Beach County Commission has agreed to spend up to \$200 million to provide TSRI with temporary facilities, land, and permanent laboratory facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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