

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 561 H. Lee Moffitt Cancer Institute and Johnnie B. Byrd, Sr., Alzheimer's Center  
**SPONSOR(S):** Galvano and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>State Administration</u>	<u>4 Y, 0 N</u>	<u>Brazzell</u>	<u>Everhart</u>
2) <u>Finance &amp; Tax</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
3) <u>Appropriations</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>

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**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 (Alzheimer’s Center). The bill renames the Florida Alzheimer’s Center as the “Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute.” 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 type="checkbox"/> | N/A <input checked="" 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:

#### B. EFFECT OF PROPOSED CHANGES:

##### H. Lee Moffitt Cancer Center and Research Institute

The H. Lee Moffitt Cancer Center and Research Institute (the Cancer Institute) has as its mission to contribute to the prevention and cure of cancer. The Cancer Institute was established by the Florida Legislature in 1981. The Cancer 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. According to an annual report, for the 2001-02 fiscal year the Cancer Institute had 5,811 admissions and 171,858 outpatient visits.

Currently s. 1004.43(1), F.S., authorizes the Cancer 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 Cancer Institute, provisions of federal law<sup>1</sup> 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 provide, in agreement with the Cancer Institute, for the utilization of facilities and personnel by the Cancer Institute for teaching and research programs conducted by USF or other accredited medical schools or research institutes.

The Cancer Institute currently has a fifty-year lease with USF for an 18 acre parcel of land, on which are located buildings owned by the Cancer Institute that the Cancer Institute has constructed and/or renovated. The Cancer Institute's sublease agreement with the State Board of Education obligates the Cancer 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 Cancer 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 Cancer Institute, the coverage provided by this fund falls short of that required by their sublease, and the Cancer Institute must purchase additional coverage which duplicates the coverage provided under the State Risk Management Trust Fund. According to the Cancer Institute, for the fiscal year 2002-03, the Cancer Institute spent \$63,628 for duplicate coverage under the State Risk Management Trust Fund.

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<sup>1</sup> Section 501 of the Internal Revenue Code.

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 2003-2004, the General Appropriations Act appropriated \$10,940,335 in General Revenue to the Cancer Institute.<sup>2</sup> This appropriation is routed through the Department of Education to the University of South Florida and then to the Cancer Institute.

#### 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.

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 Alzheimer's Center, 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 bill renames the Florida Alzheimer's Center as the "Johnnie B. 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 barred from competing with for-profit health care providers in the delivery of radiation therapy services to patients.

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.

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<sup>2</sup> Specific Appropriation 129, Conference Report on SB 2-A.

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; requires that agreements between the Cancer Institute and the State Board of Education (BOE) also address utilization of land and specify 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 renames the Florida Alzheimer's Center and Research Institute as the "Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute" (Alzheimer's Center) and 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 specify 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 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. However, the Trust Fund would no longer bear the liability of insuring these properties.

2. Expenditures: This bill does not cause the state to expend any money.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill does not affect revenues of local governments.

2. Expenditures: This bill does not cause local governments to expend any money.

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.

- D. FISCAL COMMENTS: An insignificant amount of funds will be saved by appropriating directly to the entities instead of appropriating directly to the University of South Florida and then to the Cancer Institute or Alzheimer's Center.

### **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: None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.