

Bill No. SB 2012

Barcode 474706

CHAMBER ACTION

Senate

House

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The Committee on Higher Education (Oelrich) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 1004.24, Florida Statutes, is amended to read:

1004.24 Board of Governors ~~State Board of Education~~ authorized to secure liability insurance.--

(1) The Board of Governors ~~State Board of Education~~ is authorized to secure, or otherwise provide as a self-insurer, or by a combination thereof, comprehensive general liability insurance, including professional liability for health care and veterinary sciences, for:

(a) The Board of Governors ~~State Board of Education~~ and its officers and members.

(b) A university board of trustees and its officers and members.

(c) The faculty and other employees and agents of a

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1 university board of trustees.

2 (d) The students of a state university.

3 (e) A state university or any college, school,
4 institute, center, or program thereof.

5 (f) Any not-for-profit corporation organized pursuant
6 to chapter 617, and the directors, officers, employees, and
7 agents thereof, which is affiliated with a state university,
8 if the corporation is operated for the benefit of the state
9 university in a manner consistent with the best interests of
10 the state, and if such participation is approved by a
11 self-insurance program council, the university president, and
12 the board of trustees.

13 (2) In the event the Board of Governors ~~State Board of~~
14 ~~Education~~ adopts a self-insurance program, a governing council
15 chaired by the vice president for health affairs or his or her
16 academic equivalent shall be established to administer the
17 program and its duties and responsibilities, including the
18 administration of self-insurance program assets and
19 expenditure policies, which shall be defined by ~~in~~ rules
20 adopted by the Board of Governors ~~as authorized by this~~
21 ~~section~~. The council shall have an annual actuary review
22 performed to establish funding requirements to maintain the
23 fiscal integrity of the self-insurance program. The assets of
24 a self-insurance program shall be deposited outside the State
25 Treasury and shall be administered in accordance with rules as
26 authorized by this section.

27 (3) Any self-insurance program created under this
28 section shall be funded by the entities and individuals
29 protected by such program. There shall be no funds
30 appropriated to any self-insurance program. The assets of the
31 self-insurance program shall be the property of the Board of

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1 ~~Governors State Board of Education~~ and shall be used only to
 2 pay the administrative expenses of the self-insurance program
 3 and to pay any claim, judgment, or claims bill arising out of
 4 activities for which the self-insurance program was created.
 5 Investment income that is in excess of that income necessary
 6 to ensure the solvency of a self-insurance program as
 7 established by a casualty actuary may be used to defray the
 8 annual contribution paid into the program by the entities and
 9 individuals protected by the program.

10 (4) No self-insurance program adopted by the Board of
 11 ~~Governors State Board of Education~~ may sue or be sued. The
 12 claims files of any such program are privileged and
 13 confidential, exempt from the provisions of s. 119.07(1), and
 14 are only for the use of the program in fulfilling its duties.
 15 Physicians, health care providers, and other agents or
 16 employees of participants in a self-insurance program, as
 17 described in this section, are authorized to discuss patient
 18 care information for the purposes of quality improvement,
 19 incident investigation, and claim defense with self-insurance
 20 program council members, staff, and attorneys retained by the
 21 self-insurance program, and such communications do not
 22 constitute a violation of any statute or rule relating to
 23 patient privacy or confidentiality. ~~Any self-insurance trust~~
 24 ~~fund and revenues generated by that fund shall only be used to~~
 25 ~~pay claims and administration expenses.~~

26 (5) Each self-insurance program council shall make
 27 provision for an annual financial audit pursuant to s. 11.45
 28 of its accounts to be conducted by an independent certified
 29 public accountant. The annual audit report must include a
 30 management letter and shall be submitted to the Board of
 31 ~~Governors State Board of Education~~ for review. The Board of

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1 Governors ~~State Board of Education~~ shall have the authority to
2 require and receive from the self-insurance program council or
3 from its independent auditor any detail or supplemental data
4 relative to the operation of the self-insurance program.

5 (6) The Board of Governors ~~State Board of Education~~
6 may adopt ~~make~~ such rules as are necessary to carry out the
7 provisions of this section.

8 Section 2. Subsection (3) of section 1004.43, Florida
9 Statutes, is amended to read:

10 1004.43 H. Lee Moffitt Cancer Center and Research
11 Institute.--There is established the H. Lee Moffitt Cancer
12 Center and Research Institute at the University of South
13 Florida.

14 (3) The Board of Governors ~~State Board of Education~~ is
15 authorized to secure comprehensive general liability
16 protection, including professional liability protection, for
17 the not-for-profit corporation and its subsidiaries pursuant
18 to s. 1004.24. The not-for-profit corporation and its
19 subsidiaries shall be exempt from any participation in any
20 property insurance trust fund established by law, including
21 any property insurance trust fund established pursuant to
22 chapter 284, so long as the not-for-profit corporation and its
23 subsidiaries maintain property insurance protection with
24 comparable or greater coverage limits.

25 Section 3. Subsection (4) of section 1004.445, Florida
26 Statutes, is amended to read:

27 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
28 Research Institute.--

29 (4) The Board of Governors ~~State Board of Education~~ is
30 authorized to secure comprehensive general liability
31 protection, including professional liability protection, for

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1 the not-for-profit corporation and its subsidiaries, pursuant
 2 to s. 1004.24. The not-for-profit corporation and its
 3 subsidiaries shall be exempt from any participation in any
 4 property insurance trust fund established by law, including
 5 any property insurance trust fund established pursuant to
 6 chapter 284, so long as the not-for-profit corporation and its
 7 subsidiaries maintain property insurance protection with
 8 comparable or greater coverage limits.

9 Section 4. Section 1012.965, Florida Statutes, is
 10 amended to read:

11 1012.965 Payment of costs of civil action against
 12 employees; legal status of employees and agents of university
 13 board of trustees and university faculty practice plan
 14 entities.--

15 (1) An employee or agent under the right of control of
 16 a university board of trustees who, pursuant to the university
 17 board's policies or rules, renders medical care or treatment
 18 at any hospital or health care facility with which the
 19 university board maintains an affiliation agreement whereby
 20 the hospital or health care facility provides to the
 21 university board a clinical setting for health care education,
 22 research, and services, shall not be deemed to be an agent of
 23 any person other than the university board in any civil action
 24 resulting from any act or omission of the employee or agent
 25 while rendering said medical care or treatment. For this
 26 subsection to apply, the patient shall be provided separate
 27 written conspicuous notice by the university board of trustees
 28 or by the hospital or health care facility, and shall
 29 acknowledge receipt of this notice, in writing, unless
 30 impractical by reason of an emergency, either personally or
 31 through another person authorized to give consent for him or

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1 her, that he or she will receive care provided by university
2 board's employees and liability, if any, that may arise from
3 that care is limited as provided by law. Compliance by a
4 hospital or health care facility with the requirements of
5 chapter 395 or s. 766.110(1) shall not be used as evidence in
6 any civil action to establish an employment or agency
7 relationship between the hospital or health care facility and
8 an employee or agent of the university board of trustees
9 providing services within the hospital or health care
10 facility.

11 (2) A university board of trustees shall have the
12 unconditional right and shall be permitted to intervene in any
13 civil action for medical negligence filed against an
14 affiliated hospital or health care facility when an employee
15 or agent of a university board of trustees delivered care at
16 such affiliated hospital or health care facility to the
17 patient whose care is at issue in the civil action. For the
18 purpose of ruling on a university's motion to intervene, the
19 court shall accept as conclusive a university's assertion that
20 a person is or was an employee or agent of its board of
21 trustees; however, ultimate resolution of the actual agency
22 status of the person is a factual issue to be determined
23 during the civil action in accordance with established rules
24 of court.

25 (3) Each faculty practice plan entity of a university
26 functions as the university's agent for the orderly collection
27 and administration of income generated from university faculty
28 practice activities that are part of the university board's
29 provision of a clinical setting for health care education,
30 research, and services, which setting is governed by the
31 university board and its rules. A university's faculty

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1 practice plan entity is not and shall not be a provider of
 2 medical services or an employer of any faculty physicians or
 3 other health care professionals and does not have a
 4 partnership, joint venture, association, employment, or agency
 5 relationship with any university faculty physicians or other
 6 health care professionals.

7 ~~(4)(2)~~ All faculty physicians employed by a university
 8 board of trustees who are subject to the requirements of s.
 9 456.013 shall complete their risk management continuing
 10 education on issues specific to academic medicine. Such
 11 continuing education shall include instruction for the
 12 supervision of resident physicians as required by the
 13 Accreditation Council for Graduate Medical Education. The
 14 boards described in s. 456.013 shall adopt rules to implement
 15 the provisions of this subsection.

16 ~~(5)(3)~~ There are appropriated out of any funds
 17 available to a university, not subject to the obligation of
 18 contract, covenant, or trust, the amounts necessary to carry
 19 out the purposes of this section.

20 ~~(6)(4)~~ Failure of a university board of trustees or an
 21 affiliated health care provider to do any act authorized by
 22 this section shall not constitute a cause of action against
 23 the university board, or an affiliated health care provider,
 24 or any of their members, officers, or employees.

25 Section 5. This act shall take effect July 1, 2007.

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled
3 An act relating to state universities; amending
4 s. 1004.24, F.S.; transferring responsibility
5 for securing liability insurance from the State
6 Board of Education to the Board of Governors;
7 authorizing discussion of patient care
8 information for certain purposes; amending ss.
9 1004.43 and 1004.445, F.S.; conforming
10 provisions; amending s. 1012.965, F.S.;
11 authorizing a university board of trustees to
12 intervene in a civil action for medical
13 negligence under certain circumstances;
14 providing legal status of employees and agents
15 of a university board of trustees and
16 university faculty practice plan entities;
17 providing an effective date.

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