

By Senator Joyner

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1 A bill to be entitled
2 An act relating to the Johnnie B. Byrd, Sr.,
3 Alzheimer's Center and Research Institute; amending s.
4 1004.445, F.S.; providing a mission statement for the
5 research institute; deleting the provision that
6 requires the State Board of Education to enter into an
7 agreement for the use of the facilities on the campus
8 of the University of South Florida; requiring a not-
9 for-profit corporation to govern and manage the
10 research institute; authorizing the not-for-profit
11 corporation to create corporate subsidiaries without
12 the approval from the Board of Governors; revising the
13 membership of the board of directors of the not-for-
14 profit corporation; revising the terms of service for
15 the members of the board of directors of the not-for-
16 profit corporation; requiring that the board of
17 directors, instead of the Board of Governors, perform
18 certain duties without the approval of the Board of
19 Governors; providing that management letters in the
20 annual audit report be submitted to the Auditor
21 General and not to the Board of Governors; deleting
22 the authority of the Board of Governors to require and
23 receive any data relative to the operation of the not-
24 for-profit corporation or subsidiary; requiring that
25 the board of directors appoint an advisory panel for
26 itself and the chief executive officer for specific
27 purposes; requiring that the board of directors, not
28 the Board of Governors, secure general liability
29 protection; conforming provisions to changes made by

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30 the act; deleting the provision that prohibits the
31 chief executive officer from establishing academic
32 programs for which academic credit is awarded;
33 requiring that the chief executive officer appoint
34 faculty and staff, not representatives of the
35 institute, to carry out certain responsibilities of
36 the research institute; providing that such faculty
37 and staff receive compensation, benefits, and terms of
38 service consistent with university policy; deleting
39 the chief executive officer's reporting relationship
40 to the Board of Governors; deleting the chief
41 executive officer's responsibility to submit an annual
42 operating budget to the Governor, Cabinet, the chair
43 of the Board of Governors, and the Legislature;
44 abolishing the council of scientific advisers created
45 by the board of directors; deleting the requirements
46 for submitting applications for Alzheimer's disease
47 research funding; deleting the statement that the not-
48 for-profit corporation and its subsidiaries are not
49 agencies within the meaning of s. 20.03, F.S.;

50 specifying the sources of funding for the institute;
51 requiring that any appropriation to the institute be
52 expended for certain purposes; deleting the
53 requirement that an appropriation to the research
54 institute be paid directly to the board of directors;
55 deleting obsolete provisions; deleting provisions
56 providing for the expiration of the institute;
57 providing an effective date.

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59 Be It Enacted by the Legislature of the State of Florida:

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61 Section 1. Section 1004.445, Florida Statutes, is amended
62 to read:

63 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
64 Research Institute.—

65 (1) The Johnnie B. Byrd, Sr., Alzheimer's Center and
66 Research Institute is established within ~~at~~ the University of
67 South Florida.

68 (2) The research institute has a statewide mission to
69 advance research, education, treatment, prevention, and the
70 early detection of Alzheimer's disease and is responsible for
71 distributing competitive grant funds for Alzheimer's disease
72 research.

73 ~~(3) (2) (a) The State Board of Education shall enter into an~~
74 ~~agreement for the utilization of the facilities on the campus of~~
75 ~~the University of South Florida to be known as the Johnnie B.~~
76 ~~Byrd, Sr., Alzheimer's Center and Research Institute, including~~
77 ~~all furnishings, equipment, and other chattels used in the~~
78 ~~operation of those facilities, with A Florida not-for-profit~~
79 ~~corporation is created to act as an instrumentality of the state~~
80 ~~organized solely for the sole purpose of managing governing and~~
81 ~~operating the Johnnie B. Byrd, Sr., Alzheimer's Center and~~
82 ~~Research Institute. This not-for-profit corporation, acting as~~
83 ~~an instrumentality of the state, shall govern and operate the~~
84 ~~Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute~~
85 ~~in accordance with the terms of the agreement between the State~~
86 ~~Board of Education and the not-for-profit corporation. The not-~~
87 ~~for-profit corporation may, with the prior approval of the Board~~

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88 ~~of Governors,~~ create either for-profit or not-for-profit
89 corporate subsidiaries, or both, to fulfill its mission. The
90 not-for-profit corporation and its subsidiaries may ~~are~~
91 ~~authorized to~~ receive, hold, invest, and administer property and
92 any moneys acquired from private, local, state, and federal
93 sources, as well as technical and professional income generated
94 or derived from practice activities of the institute, for the
95 benefit of the institute and the fulfillment of its mission.
96 ~~Effective July 1, 2007, the agreement authority provided to the~~
97 ~~State Board of Education is transferred to the Board of~~
98 ~~Governors.~~

99 (b) The affairs of the not-for-profit corporation shall be
100 managed by a board of directors who shall serve without
101 compensation. The board of directors shall consist of seven
102 members. Four members shall be appointed by the chair of the
103 board of trustees ~~the President~~ of the University of South
104 Florida and three members shall be appointed as follows: ~~the~~
105 ~~chair of the Board of Governors, or their designees, five~~
106 ~~representatives of the state universities, and nine~~
107 ~~representatives of the public who are neither medical doctors~~
108 ~~nor state employees. Each director who is a representative of a~~
109 ~~state university or of the public shall be appointed to serve a~~
110 ~~term of 3 years. The chair of the board of directors shall be~~
111 ~~selected by a majority vote of the directors. Each director~~
112 ~~shall have only one vote. Of the five university~~
113 ~~representatives, one shall be appointed by the Governor, one ~~two~~~~
114 ~~by the President of the Senate, and one ~~two~~ by the Speaker of~~
115 ~~the House of Representatives.~~ Each member of the board of
116 directors shall be appointed to a 5-year term beginning July 1,

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117 ~~2009, and may be reappointed; and of the nine public~~
118 ~~representatives, three shall be appointed by the Governor, three~~
119 ~~by the President of the Senate, and three by the Speaker of the~~
120 ~~House of Representatives. Any vacancy in office shall be filled~~
121 ~~in the same manner as the original appointment. Any director may~~
122 ~~be reappointed.~~

123 (4)~~(3)~~ The board of directors ~~Governors~~ shall provide ~~in~~
124 ~~the agreement with the not-for-profit corporation for the~~
125 ~~following:~~

126 (a) ~~Approval by the Board of Governors~~ of the articles of
127 incorporation of the not-for-profit corporation.

128 (b) ~~Approval by the Board of Governors~~ of the articles of
129 incorporation of any ~~not-for-profit~~ corporate subsidiary created
130 by the not-for-profit corporation.

131 (c) The use ~~Utilization~~ of lands, facilities, and personnel
132 by the not-for-profit corporation and its subsidiaries for
133 research, education, treatment, prevention, and the early
134 detection of Alzheimer's disease and for mutually approved
135 teaching and research programs conducted by the University of
136 South Florida or other accredited medical schools or research
137 institutes.

138 (d) Preparation of an annual financial audit pursuant to s.
139 11.45 of the not-for-profit corporation's accounts and the
140 accounts of any subsidiaries to be conducted by an independent
141 certified public accountant. The annual audit report shall
142 include management letters and shall be submitted to the Auditor
143 General ~~and the Board of Governors~~ for review. The ~~Board of~~
144 ~~Governors, the Auditor General,~~ and the Office of Program Policy
145 Analysis and Government Accountability may ~~shall have the~~

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146 ~~authority to~~ require and receive from the not-for-profit
147 corporation and any subsidiaries, or from their independent
148 auditor, any detail or supplemental data relative to the
149 operation of the not-for-profit corporation or subsidiary.

150 (e) Provision by the not-for-profit corporation and its
151 subsidiaries of equal employment opportunities for all persons
152 regardless of race, color, religion, gender, age, or national
153 origin.

154 (f) The appointment of an advisory panel to the board of
155 directors and the chief executive officer for the purposes of
156 providing advice and advocacy in meeting the institute's
157 statewide mission, engaging community leaders and other
158 concerned members of the public in supporting the institute's
159 mission, raising public awareness of Alzheimer's disease, and
160 soliciting philanthropic support for the institute.

161 (5)~~(4)~~ The board of directors of the not-for-profit
162 corporation may ~~Governors is authorized to~~ secure comprehensive
163 general liability protection, including professional liability
164 protection, for the not-for-profit corporation and its
165 subsidiaries, pursuant to s. 1004.24. The not-for-profit
166 corporation and its subsidiaries shall be exempt from any
167 participation in any property insurance trust fund established
168 by law, including any property insurance trust fund established
169 pursuant to chapter 284, so long as the not-for-profit
170 corporation and its subsidiaries maintain property insurance
171 protection with comparable or greater coverage limits.

172 ~~(5) In the event that the agreement between the not-for-~~
173 ~~profit corporation and the Board of Governors is terminated for~~
174 ~~any reason, the Board of Governors shall assume governance and~~

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175 ~~operation of the facilities.~~

176 (6) The institute shall be administered by a chief
177 executive officer, who shall be appointed by and serve at the
178 pleasure of the board of directors of the not-for-profit
179 corporation, and who shall exercise the following powers and
180 duties, subject to the approval of the board of directors:

181 (a) The chief executive officer shall establish programs
182 that fulfill the mission of the institute in research,
183 education, treatment, prevention, and early detection of
184 Alzheimer's disease; ~~however, the chief executive officer may~~
185 ~~not establish academic programs for which academic credit is~~
186 ~~awarded and which culminate in the conferring of a degree,~~
187 ~~without prior approval of the Board of Governors.~~

188 (b) The chief executive officer shall have control over the
189 budget and the moneys appropriated or donated to the institute
190 from private, local, state, and federal sources, as well as
191 technical and professional income generated or derived from
192 practice activities of the institute. However, professional
193 income generated by university faculty from practice activities
194 at the institute shall be shared between the institute and the
195 university as determined by the chief executive officer and the
196 appropriate university dean or vice president.

197 (c) The chief executive officer shall appoint faculty and
198 staff representatives of the institute to carry out the
199 research, patient care, and educational activities of the
200 institute. This appointed faculty and staff shall receive and
201 establish the compensation, benefits, and terms of service that
202 are consistent with university policy of such representatives.
203 ~~Representatives of the institute shall be eligible to hold~~

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204 ~~concurrent appointments at affiliated academic institutions.~~
205 ~~University faculty shall be eligible to hold concurrent~~
206 ~~appointments at the institute.~~

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

209 (e) The chief executive officer shall have the power to
210 create the administrative structure necessary to carry out the
211 mission of the institute.

212 ~~(f) The chief executive officer shall have a reporting~~
213 ~~relationship to the Board of Governors or its designee.~~

214 (f) ~~(g)~~ The chief executive officer shall provide a copy of
215 the institute's annual report to the Governor and Cabinet, the
216 President of the Senate, the Speaker of the House of
217 Representatives, and the chair of the Board of Governors. The
218 annual report shall describe the expenditure of all funds and
219 shall provide information regarding research that has been
220 conducted or funded by the institute ~~center~~, as well as the
221 expected and actual results of such research.

222 ~~(h) By August 1 of each year, the chief executive officer~~
223 ~~shall develop and submit to the Governor and Cabinet, the~~
224 ~~President of the Senate, the Speaker of the House of~~
225 ~~Representatives, and the chair of the Board of Governors an~~
226 ~~annual operating budget detailing the planned use of state,~~
227 ~~federal, and private funds for the fiscal year.~~

228 ~~(7) The board of directors of the not-for-profit~~
229 ~~corporation shall create a council of scientific advisers to the~~
230 ~~chief executive officer comprised of leading researchers,~~
231 ~~physicians, and scientists. The council shall review programs~~
232 ~~and recommend research priorities and initiatives to maximize~~

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233 ~~the state's investment in the institute. The members of the~~
234 ~~council shall be appointed by the board of directors of the not-~~
235 ~~for-profit corporation. Each member of the council shall be~~
236 ~~appointed to serve a 2-year term and may be reappointed to the~~
237 ~~council.~~

238 ~~(8)(a) Applications for Alzheimer's disease research~~
239 ~~funding may be submitted from any university or established~~
240 ~~research institute in the state. All qualified investigators in~~
241 ~~the state, regardless of institutional affiliation, shall have~~
242 ~~equal access and opportunity to compete for the research~~
243 ~~funding. Grants shall be awarded by the board of directors of~~
244 ~~the not-for-profit corporation on the basis of scientific merit,~~
245 ~~as determined by an open, competitive peer review process that~~
246 ~~ensures objectivity, consistency, and high quality. The~~
247 ~~following types of applications shall be considered for funding:~~

248 ~~1. Investigator initiated research grants.~~

249 ~~2. Institutional research grants.~~

250 ~~3. Collaborative research grants, including those that~~
251 ~~advance the finding of cures through basic or applied research.~~

252 ~~(b) Preference may be given to grant proposals that foster~~
253 ~~collaboration among institutions, researchers, and community~~
254 ~~practitioners because these proposals support the advancement of~~
255 ~~cures through basic or applied research, including clinical~~
256 ~~trials involving Alzheimer's patients and related networks.~~

257 ~~(c) To ensure that all proposals for research funding are~~
258 ~~appropriate and are evaluated fairly on the basis of scientific~~
259 ~~merit, the board of directors of the not-for-profit corporation,~~
260 ~~in consultation with the council of scientific advisors, shall~~
261 ~~appoint a peer review panel of independent, scientifically~~

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262 ~~qualified individuals to review the scientific content of each~~
263 ~~proposal and establish its scientific priority score. The~~
264 ~~priority scores shall be forwarded to the council and must be~~
265 ~~considered by the board of directors of the not-for-profit~~
266 ~~corporation in determining which proposals shall be recommended~~
267 ~~for funding.~~

268 ~~(d) The council of scientific advisors and the peer review~~
269 ~~panel shall establish and follow rigorous guidelines for ethical~~
270 ~~conduct and adhere to a strict policy with regard to conflict of~~
271 ~~interest. All employees, members of the board of directors, and~~
272 ~~affiliates of the not-for-profit corporation shall follow the~~
273 ~~same rigorous guidelines for ethical conduct and shall adhere to~~
274 ~~the same strict policy with regard to conflict of interest. A~~
275 ~~member of the council or panel may not participate in any~~
276 ~~discussion or decision with respect to a research proposal by~~
277 ~~any firm, entity, or agency with which the member is associated~~
278 ~~as a member of the governing body or as an employee or with~~
279 ~~which the member has entered into a contractual arrangement.~~
280 ~~Meetings of the council and the peer review panels are subject~~
281 ~~to chapter 119, s. 286.011, and s. 24, Art. I of the State~~
282 ~~Constitution.~~

283 ~~(9) In carrying out the provisions of this section, the~~
284 ~~not-for-profit corporation and its subsidiaries are not agencies~~
285 ~~within the meaning of s. 20.03(11).~~

286 ~~(7)(10)~~ (7) The following information is confidential and
287 exempt from s. 119.07(1) and s. 24, Art. I of the State
288 Constitution:

289 (a) Personal identifying information relating to clients of
290 programs created or funded through the Johnnie B. Byrd, Sr.,

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291 Alzheimer's Center and Research Institute that is held by the
292 institute, the University of South Florida, the Board of
293 Governors, or the State Board of Education;

294 (b) Medical or health records relating to patients held by
295 the institute;

296 (c) Materials that relate to methods of manufacture or
297 production, potential trade secrets, potentially patentable
298 material, actual trade secrets as defined in s. 688.002, or
299 proprietary information received, generated, ascertained, or
300 discovered during the course of research conducted by or through
301 the institute and business transactions resulting from such
302 research;

303 (d) The personal identifying information of a donor or
304 prospective donor to the institute who wishes to remain
305 anonymous; and

306 (e) Any information received by the institute from a person
307 from another state or nation or the Federal Government that is
308 otherwise confidential or exempt pursuant to the laws of that
309 state or nation or pursuant to federal law.

310
311 Any governmental entity that demonstrates a need to access such
312 confidential and exempt information in order to perform its
313 duties and responsibilities shall have access to such
314 information.

315 (8) The institute's budget shall include the moneys
316 appropriated in the General Appropriations Act, donated, or
317 otherwise provided to the institute from private, local, state,
318 and federal sources as well as technical and professional income
319 generated or derived from practice activities at the institute.

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320 Any appropriation to the institute shall be expended for the
321 purposes specified in this section, including conducting and
322 supporting research and related clinical services, awarding
323 institutional grants and investigator-initiated research grants
324 to other persons within the state through a competitive process,
325 developing and operating integrated data projects, providing
326 assistance to the memory disorder clinics established in s.
327 430.502, and providing for the operation of the institute.

328 ~~(11) Any appropriation to the institute provided in a~~
329 ~~general appropriations act shall be paid directly to the board~~
330 ~~of directors of the not-for-profit corporation by warrant drawn~~
331 ~~by the Chief Financial Officer from the State Treasury.~~

332 ~~(12) By June 1, 2009, the Division of Statutory Revision of~~
333 ~~the Office of Legislative Services shall certify to the~~
334 ~~President of the Senate and the Speaker of the House of~~
335 ~~Representatives the language and statutory citation of this~~
336 ~~section, which is scheduled to expire January 1, 2011.~~

337 ~~(13) The Legislature shall review the performance, the~~
338 ~~outcomes, and the financial management of the Johnnie B. Byrd,~~
339 ~~Sr., Alzheimer's Center and Research Institute during the 2010~~
340 ~~Regular Session of the Legislature and shall determine the most~~
341 ~~appropriate funding source and means of funding the center and~~
342 ~~institute based on its review.~~

343 ~~(14) This section expires January 1, 2011, unless reviewed~~
344 ~~and reenacted by the Legislature before that date.~~

345 Section 2. This act shall take effect upon becoming a law.