

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1350

INTRODUCER: Senator Sobel

SUBJECT: Cancer Control

DATE: February 7, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill renames the Cancer Control and Research Act as the “Florida Cancer Control Act” (Act). The bill also replaces the Florida Cancer Control and Research Advisory Council (C-CRAB) with the “Florida Cancer Control and Resource Advisory Council” (Resource Advisory Council). The Resource Advisory Council is different from the existing C-CRAB in that it:

- Continues to recommend solutions and policy alternatives to the State Surgeon General, but not to the Board of Governors;
- Is made up of 38 members, instead of 35 members;
- Consists of members who have been nominated by a nominating committee prior to being appointed by the Governor, instead of being selected and appointed by the Governor;
- Consists of a delineated number of types of cancer stakeholders in Florida, instead of consisting of representatives from stakeholders as specified in law;
- Contains an executive committee of 9 members, 4 of whom are selected by the chairperson, instead of 3 or more members who are all appointed by the chairperson;
- May invite additional state cancer stakeholder organizations, groups, or individuals with expertise, experience, or resources to serve as consultants to assist the Resource Advisory Council, without voting rights;
- Must advise the State Surgeon General, the Legislature, and the Governor, but not the Board of Governors, with respect to cancer control and resources, but not specifically research, in Florida;
- Must review and approve the Florida Cancer Plan every 4 years, instead of annually;

- Must formulate and recommend to the State Surgeon General, as well as the Governor, the President of the Senate, and the Speaker of the House of Representatives, an evidence-based plan for the prevention and early detection of cancer;
- Is responsible for providing expertise and input in the content and development of the Florida Cancer Plan, not just making recommendations;
- Is authorized, not required, to form committees to develop strategies for taking action regarding certain cancer-related topics;
- Is authorized, instead of required, to recommend to the State Surgeon General the awarding of grants and contracts to qualified entities to perform activities related to cancer control, prevention, and education or training;
- Has input as to the prioritization and implementation of statewide programs and the allocation of resources in the Department of Health's (DOH) comprehensive cancer control program, consistent with the Florida Cancer Plan;
- Must develop or purchase, if funded by the Legislature, written summaries to inform citizens and professionals on the general prevention, detection, treatment, and survivorship of cancer, instead of written summaries about specified types of cancers;
- Must develop position statements, as well as educational programs, to inform not only citizen groups, associations, and voluntary organizations, but also government officials, about cancer-related matters;
- May recommend to the State Surgeon General, the Governor, the President of the Senate, and the Speaker of the House of Representatives, but not the Board of Governors, methods of enforcing and implementing laws already enacted concerning cancer control and education; and
- Must report by December 1, instead of by February 15, each year findings and recommendations to the State Surgeon General, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

This bill also removes several references to cancer research, removes cancer research as a focus of the Act, and makes the provisions of the Act broader in scope as they relate to cancer control, prevention, and education or training.

In addition, the bill staggers the terms of certain members of the Resource Advisory Council; provides that 20 members constitute a quorum; and requires the H. Lee Moffitt Cancer Center and Research Institute, Inc., (Moffitt) to provide a full-time executive director to coordinate, facilitate, and communicate the mission of the council, and provide additional administrative support.

The bill removes the Board of Governor's authorization to award grants under the Act and authorizes, but does not require the State Surgeon General to award such grants. The bill also authorizes the Department of Health, instead of the Board of Governors or the State Surgeon General to adopt rules to implement the Act.

The bill provides that the Florida Cancer Plan is established within the DOH, which must utilize the Resource Advisory Council in developing the plan, prioritizing goals, allocating resources, and approving the Florida Cancer Plan in its final form.

The bill removes the provision for awarding financial aid to cancer patients under the Act.

Under the bill, the Florida Cancer Control and Research Fund is renamed the “Florida Cancer Control Fund.”

The bill also makes several cross-reference corrections to conform to changes made by the bill.

This bill substantially amends the following sections of the Florida Statutes: 1004.435, 458.324, and 459.0125.

II. Present Situation:

Cancer Control and Research Act

The Cancer Control and Research Act is created in s. 1004.435, F.S. The C-CRAB is established within the Cancer Control and Research Act to advise the Board of Governors, the State Surgeon General, and the Legislature with respect to cancer control and research in Florida.

The C-CRAB consists of 34 members and the chair of C-CRAB appoints members to an executive committee. The C-CRAB is divided into 4 sub-committees which focus on the following four goals and strategies:

- Goal 1. Develop System Capacity Strategy: Reconfigure the cancer councils into one united network.
- Goal 2. Prevention Strategy: Strengthen links to partner organizations to reduce the burden of tobacco and obesity.
- Goal 3. Treatment and Access to Care: Strategy: Improve cancer resource awareness and access for minority and disparate populations.
- Goal 4. Survivorship Strategy: Improve record keeping systems, and expand services and resources for cancer survivors.¹

Staff and administrative support are provided to C-CRAB by Moffitt in Tampa, Florida.²

Annually the C-CRAB approves the Florida Cancer Plan,³ which is a program for cancer control and research that must be consistent with the State Health Plan and integrated and coordinated with existing programs in Florida.⁴ Additional responsibilities of the C-CRAB include:

¹ Florida Cancer Control & Research Advisory Council, *What is the Cancer Control and Research Advisory Council?*, available at: <http://ccrab.org/> (Last visited on February 3, 2012).

² *Id.*

³ The 2010 Florida Cancer Plan is available at:

http://www.doh.state.fl.us/Family/cancer/ccc/plan/NewFlorida_Cancer_Plan_2010.pdf (Last visited on February 6, 2012).

⁴ The Florida Cancer Plan (2010) provides an overview of the cancer burden in Florida, health disparities by population, specific behavioral and preventive measures that may reduce one’s risk of cancer, and early detection techniques by 10 specific cancer sites or classifications. These cancer sites and classifications include breast, cervical, childhood, colorectal, lung, lymphoma, oral and pharyngeal, ovarian, prostate, and melanoma of the skin. These specific cancer sites have been included because they are either the most common cancer sites or are some of the most receptive to prevention and early detection. More importantly, when addressed through public health and policy, decreasing the incidence and mortality of these cancers can reduce the burden of cancer in Florida and nationwide.

- Recommending to the State Surgeon General a plan for the care and treatment of persons suffering from cancer and standard requirements for cancer units in hospitals and clinics in Florida;
- Recommending grant and contract awards for the planning, establishment, or implementation of programs in cancer control or prevention, cancer education and training, and cancer research;
- Pursuant to legislative appropriations, providing written summaries that are easily understood by the average adult patient, informing actual and high-risk breast cancer patients, prostate cancer patients, and men who are considering prostate cancer screening of the medically viable treatment alternatives available to them and explaining the relative advantages, disadvantages, and risks associated therewith;
- Implementing an educational program for the prevention of cancer and its early detection and treatment;
- Advising the Board of Governors and the State Surgeon General on methods of enforcing and implementing laws concerning cancer control, research, and education; and
- Recommending to the Board of Governors or the State Surgeon General rulemaking needed to enable the C-CRAB to perform its duties.

H. Lee Moffitt Cancer Center and Research Institute, Inc.

Moffitt opened its doors on October 26, 1986, on the Tampa campus of the University of South Florida. Moffitt's main priority is fighting cancer through patient care, education and research.⁵

Funding for construction of Moffitt's initial \$70 million facility came primarily from the state's cigarette tax, while the momentum to create Moffitt's Cancer Center came from a cadre of legislators, physicians, educators and business leaders who envisioned a new dimension of cancer care and research in Florida.⁶

The Moffitt Cancer Center is a not-for-profit institution. It includes private patient rooms, the Southeast's largest Blood and Marrow Transplant Program, outpatient treatment programs that record more than 320,500 visits a year, the Moffitt Research Center, Moffitt Cancer Center at International Plaza, and the Lifetime Cancer Screening & Prevention Center.⁷

In 1999, Moffitt developed the Affiliate Network Program, a professional partnership involving strategic affiliations with community physicians and health care facilities throughout Florida and beyond. Moffitt works with its partners to offer clinical expertise and research trials found only at a National Cancer Institute Comprehensive Cancer Center. Moffitt reaches about 20 percent of the cancer patient population in Florida through these relationships.⁸

⁵ H. Lee Moffitt Cancer Center and Research Institute, *About Moffitt: Background*, available at: <http://www.moffitt.org/Site.aspx?spid=104F906D53A4406796FB87126C8301EA> (Last visited on February 3, 2012).

⁶ *Id.*

⁷ H. Lee Moffitt Cancer Center and Research Institute, *About Moffitt: Overview of Moffitt*, available at: <http://www.moffitt.org/about> (Last visited on February 3, 2012).

⁸ *Supra* fn. 1.

Florida's Cancer-Related Programs

The James and Esther King Biomedical Research Program (King Program) provides an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.⁹ The King Program offers competitive grants to researchers throughout Florida. Grant applications from any university or established research institute¹⁰ in Florida will be considered for biomedical research funding. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding.¹¹

The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program's (Bankhead-Coley Program) purpose is to advance progress toward cures for cancer through grants awarded for cancer research. Applications for funding cancer research from any university or established research institute in Florida are considered under the Bankhead-Coley Program. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding.¹²

The DOH administers the Comprehensive Cancer Control Program (CCCP) that is funded by the Centers for Disease Control and Prevention. The CCCP coordinates closely with the C-CRAB and contracts with Moffitt to develop the Florida Cancer Plan and conduct CCCP activities as provided for in law.¹³

The DOH contracts with the University of Miami to oversee the operations of the state's cancer registry, the Florida Cancer Data System, established under ch. 385, F.S. Information collected

⁹ Section 215.5602, F.S.

¹⁰ An "established research institute" is any Florida non-profit or foreign non-profit corporation covered under ch. 617, F.S., with a physical location in Florida, whose stated purpose and power is scientific, biomedical or biotechnological research or development and is legally registered with the Florida Department of State, Division of Corporations. This includes the federal government and non-profit medical and surgical hospitals, including veterans' administration hospitals. See James & Esther King Biomedical Research Program, *Call for Grant Applications: Biomedical, Biotechnological, and Social Scientific Research and Development, Fiscal Year 2009-2010*, page 7, available at:

http://forms.floridabiomed.com/jek_call/King%20Call%2009-10.pdf (Last visited on March 16, 2011).

¹¹ Grant award recipients for FY 2010-11 include the following institutions or investigators associated with these institutions: Bay Pines VA Healthcare System, Florida International University (FIU), Florida State University, M.D. Anderson Cancer Center, Mayo Clinic, Miami VA Healthcare System, H. Lee Moffitt Cancer Center & Research Institute (Moffitt Cancer Center), Sanford-Burnham Institute, Scripps Research Institute, Torrey Pines Institute, University of Central Florida, University of Florida, University of Miami, and University of South Florida. See James & Esther King Biomedical Research Program, *Florida Biomedical Research Programs Grants Awarded by Institution*, available at:

<http://forms.floridabiomed.com/Forms/GrantsAwardedbyInstitution.pdf> (Last visited on March 16, 2011).

¹² Grant award recipients for FY 2010-11 include the following institutions or investigators associated with these institutions: Florida A&M University, Florida State University, M.D. Anderson Cancer Center, Mayo Clinic, Moffitt Cancer Center, Sanford-Burnham Institute, Scripps Research Institute, University of Central Florida, University of Florida, University of Miami, and the University of South Florida. See James & Esther King Biomedical Research Program, *Florida Biomedical Research Programs Grants Awarded by Institution*, available at:

<http://forms.floridabiomed.com/Forms/GrantsAwardedbyInstitution.pdf> (Last visited on March 16, 2011).

¹³ Department of Health, *Bill Analysis, Economic Statement, and Fiscal Note for SB 1350*, January 24, 2012, on file with the Senate Health Regulation Committee.

from the data system is used to inform the C-CRAB and used by C-CRAB to make recommendations.¹⁴

III. Effect of Proposed Changes:

This bill renames the Cancer Control and Research Act as the “Florida Cancer Control Act” (Act); replaces the Florida Cancer Control and Research Advisory Council (C-CRAB) with the “Florida Cancer Control and Resource Advisory Council” (Resource Advisory Council); and renames the Florida Cancer Control and Research Fund as the “Florida Cancer Control Fund.”

This bill also removes several references to cancer research, removes cancer research as a focus of the Act, and makes the provisions of the Act broader in scope as they relate to cancer control, prevention, and education or training. In addition, the Board of Governor’s role in awarding grants, and receiving input from the council concerning such grants, cancer control, research, and education, is eliminated.

The bill requires the Resource Advisory Council to serve as a resource and clearinghouse for comprehensive cancer control in Florida and facilitate effective communication, shared resources, and synergism between and among the cancer stakeholder organizations and groups within Florida.

The bill outlines the membership of the Resource Advisory Council, which is to consist of members representing the various cancer constituencies in the state. There is to be a total of 38 voting members and all members must be residents of Florida. Of those members, 3 represent the general public and are appointed by the Governor, 1 is appointed by the President of the Senate, 1 is appointed by the Speaker of the House of Representatives, 1 is appointed by the State Surgeon General, and 32 represent cancer stakeholders and are appointed by the Governor. At least 10 of the 32 stakeholder members must be a minority person, defined under s. 288.703, F.S., to include a lawful, permanent resident of Florida who is:

- An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.
- An Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
- A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services.
- An American woman.

The bill staggers the terms of the three members of the Resource Advisory Council who represent the general public. All members serve 4-year terms and a chair and vice-chair are to be elected by the council membership for 2-year terms.

¹⁴ *Id.*

The bill changes current law to remove the requirement that at least one of the members appointed by the Governor be 60 years of age or older and the bill deletes the prescribed representation of the membership of the C-CRAB. Instead, the bill establishes a nominating committee, which consists of at least one member from seven membership categories outlined in the bill (see below), including the vice chair of the Resource Advisory Council. The nominating committee must review applicants for the Resource Advisory Council on an annual basis and make recommendations for gubernatorial appointments to the council. Each nominated member is eligible for reappointment one time, meaning a member may not serve more than two 4-year terms.

The 32 members appointed by the Governor who represent cancer stakeholders in Florida must be recommended by cancer stakeholder organizations or groups, by council nomination, or through self-referrals. The membership categories and the maximum number of members in each category include:

- Five members from university-based health care delivery systems with major cancer programs, including the H. Lee Moffitt Cancer Center and Research Institute, Inc., the University of Florida Shands Cancer Center, and the University of Miami Sylvester Comprehensive Cancer Center.
- Five members from community-based health care delivery systems or practices with American College of Surgeons accredited cancer programs.
- Four members from nonprofit or voluntary organizations, including a representative from the American Cancer Society.
- Three members from health and health care disparities research and outreach cancer programs.
- Five members from state governmental agencies, including the Department of Health, the Department of Education, and the Biomedical Research Advisory Council.
- Five members from cancer-related professional organizations, including the Florida Society of Clinical Oncology, the Florida Society of Oncology Social Workers, and the Florida Medical Association.
- Five members each representing one of the state regional cancer collaboratives.

The Resource Advisory Council is to establish an executive committee, which is responsible for coordinating the activities and planning the direction of the council. The executive committee consists of the council's chair, vice chair, the appointee of the Speaker of the House of Representatives, the appointee of the President of the Senate, the appointee of the State Surgeon General, and 4 members selected by the chair. Each member of the executive committee serves a 2-year term, which must correspond to the chair's term in office. The executive committee must also consist of at least one member of each stakeholder membership group (see above). Additional members may serve on the committee at the discretion of the chair.

The Resource Advisory Council may, by majority vote, invite additional state cancer stakeholder organizations, groups, or individuals with expertise, experience, or resources to serve as consultants to assist the council in accomplishing its mission. The consultants do not have voting rights.

The bill provides that 20 members of the Resource Advisory Council constitute a quorum for the purpose of exercising all of the powers of the council. A majority vote is required for all actions of the council.

Just as with the C-CRAB, the Resource Advisory Council members may not be paid for their service, but are entitled to reimbursement for per diem and travel expenses; may not participate in discussions or decisions which are a conflict of interest; and may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.

The Resource Advisory Council is responsible for:

- Advising the State Surgeon General, the Governor, and the Legislature, about cancer control and resources in Florida.
- Reviewing and approving at least every 4 years the Florida Cancer Plan, which is generated through the DOH.
- Formulating and recommending to the State Surgeon General, the Governor, the President of the Senate, and the Speaker of the House of Representatives an evidence-based plan that is consistent with standards of practice and supported by evidence-based medicine and is for the prevention and early detection of cancer.
- Providing expertise and input in the content and development of the Florida Cancer Plan, including recommendations for the coordination and integration of other state efforts concerned with cancer control.
- Developing or purchasing, if funding is provided, standardized written summaries, written in layperson's terms and in language easily understood by the average adult patient, which are to inform citizens and professionals on cancer prevention, detection, treatment, and survivorship. In addition, the council must develop and implement educational programs and position statements to inform citizen groups, associations, government officials, and voluntary organizations about cancer-related matters.
- Formulating and implementing a continuing education program for the prevention of cancer and its early diagnosis and disseminating to hospitals, cancer patients, and the public, information concerning the proper treatment of cancer.
- Reporting its findings and recommendations to the State Surgeon General, the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 each year.

The Resource Advisory Council may form committees to develop strategies for taking action regarding:

- Cancer plan evaluation, including the creation of a tumor registry, data retrieval systems, and epidemiology of cancer in Florida.
- Cancer prevention.
- Cancer detection.
- Cancer treatments.
- Support services for cancer patients and caregivers.
- Cancer education for laypersons and professionals.
- Other cancer-control-related topics.

The bill authorizes the Resource Advisory Council to recommend to the State Surgeon General the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies to plan, establish, or conduct programs in cancer control, prevention, and education or training. The council must have input into the prioritization and implementation of statewide programs and the allocation of resources in the DOH's comprehensive cancer control program, consistent with the Florida Cancer Plan.

The Resource Advisory Council may also recommend to the State Surgeon General, the Governor, the President of the Senate, and the Speaker of the House of Representatives methods of enforcing and implementing laws already enacted and concerned with cancer control and education and may recommend to the State Surgeon General rules that are not inconsistent with law that are deemed necessary for the performance of its duties and proper administration of the Act.

The bill also provides for the responsibilities of Moffitt, the State Surgeon General, and the DOH. The bill authorizes the State Surgeon General, after consultation with the Resource Advocacy Council, to award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention and cancer education or training.

Moffitt is required to provide a full-time executive director to coordinate, facilitate, and communicate the mission and responsibilities of the Resource Advisory Council and provide additional administrative support, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council.

The DOH, after consultation with the Resource Advisory Council, may adopt rules necessary for implementation of the Act. The Florida Cancer Plan is established within the DOH and the DOH must utilize the Resource Advisory Council in developing the Florida Cancer Plan, prioritizing goals, allocating resources, and approving the plan in its final form.

The bill removes the provision for awarding financial aid to cancer patients under the Act.

The bill changes the name of the Florida Cancer Control and Research Fund to the Florida Cancer Control Fund (the Fund). The Fund may no longer be used for related activities authorized by the State Board of Education.

The bill also corrects several cross-references to conform to changes made by the bill.

The bill provides that it will take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Moffitt is required to provide a full-time executive director to coordinate, facilitate, and communicate the mission and responsibilities of the Resource Advisory Council and provide additional administrative support, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council. Therefore, Moffitt is likely to incur an indeterminate amount of costs associated with such responsibilities.

Resource Advisory Council members must serve on the council without pay, but may be reimbursed for per diem and travel. The bill does not specify the entity responsible for paying the reimbursement for per diem and travel.

The Resource Advisory Council must, if funded by the Legislature, develop or purchase standardized written summaries informing citizens and professionals on cancer prevention, detection, treatment, and survivorship. In addition the council must develop and implement educational programs and position statements regarding cancer-related matters.

VI. Technical Deficiencies:

On line 191 of the bill, the word “healthcare” should be two words.

Line 300 of the bill refers to the State Surgeon General awarding contracts and grants to qualified *profit* or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention and cancer education or training. However, lines 397-404 of the bill provide that the Fund may only be used for grants and contracts to qualified nonprofit associations or governmental agencies for the purpose of cancer control or prevention; cancer education or training; all expenses incurred in connection with the

administration of the Act; and programs funded through the grants and contracts authorized by the State Surgeon General.

VII. Related Issues:

Although “plan” is defined in the bill to mean the Florida Cancer Plan, it is unclear whether the intent is for the word “plan” in lines 261 and 272 to mean the Florida Cancer Plan. This is unclear because lines 259-273 require the Resource Advisory Council to formulate and recommend an evidence-based “plan” and requires the State Surgeon General to consider the “plan” in developing DOH priorities, while lines 274-280 require the Resource Advisory Council to provide expertise and input in the content and development of the “Florida Cancer Plan” and make recommendations that include the coordination and integration of other state efforts concerned with cancer control.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.