

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB PBC 08-08 Johnnie B. Byrd, Sr. Alzheimer's Center
SPONSOR(S): Policy & Budget Council; Bean
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1080; SB 1864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Policy & Budget Council		Leznoff	Hansen
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes statutory changes to implement the funding decisions contained in the proposed General Appropriations Act for Fiscal Year 2008-2009. The bill establishes the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute within the University of South Florida (USF), and specifies that all entities created pursuant to s. 1004.445, F.S., prior to October 1, 2008 are dissolved and abolished. The bill also requires the institute to transfer all unexpended balances, records, functions and assets – including the facility presently owned or operated by the not-for-profit corporation pursuant to s. 1004.445, F.S. – to USF.

Further, the bill directs the institute to cease entering into contractual arrangements and to make all current third-party contractual agreements available for review by the Board of Trustees of USF. The bill also provides for a final financial audit to be jointly contracted for by the Board of Trustees and the current board of directors of the institute.

The bill substantially amends s. 1004.445, F.S., and indicates the new governance of structure of the institute after it is re-established within USF. The bill prohibits the institute from using state funds to conduct biomedical research. However, the bill encourages the institute to seek competitive state funding for biomedical research through the James and Esther King Biomedical Research Program created in s. 215.5602, F.S.

The bill provides for the institute's administration by a director of operations, who is responsible for appointing faculty and staff, seeking federal and private sources of grant money and donations, and preparation of an annual report describing the institute's expenditure of funds and research endeavors. Additionally, an advisory council is created, and council composition, terms, and manner of appointment are provided for in the bill.

Finally, the bill reduces the amount of recurring general revenue funding annually appropriated for use by the institute from \$13.5 million to \$3.75 million, and the section's sunset provision is extended an additional two years, so that the section expires on January 1, 2013, unless re-enacted.

The bill is effective upon becoming a law, except as otherwise expressly provided.

FULL ANALYSIS

A. I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill reduces the amount of funding annually appropriated for use by the Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute from the General Revenue fund from \$13.5 million to \$3.75 million. Moreover, the bill prohibits the institute from using state funds to conduct biomedical research, and encourages the institute to seek competitive state funding for biomedical research through the James and Esther King Biomedical Research Program.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Alzheimer’s Disease

Dementia describes a group of symptoms related to a brain disorder that seriously affects a person’s ability to carry out activities of daily living. Symptoms of the disease include memory loss, confusion, impaired judgment, personality changes, disorientation, and loss of language skills. The two most common forms of dementia among older people are Alzheimer’s disease (which initially involves the parts of the brain that control thought, memory, and language) and multi-infarct dementia (caused by a series of small strokes or changes in the brain’s blood supply, which result in the death of brain tissue). It is still not known what causes Alzheimer’s disease, and there is presently no cure for the ailment.¹

Alzheimer’s disease affects approximately 5.1 million persons in the United States as of 2007. In Florida, more than 400,000 people currently suffer with Alzheimer’s disease. Studies show that figure will increase statewide to as many as 712,962 in the year 2025.² Ninety-six percent of persons with Alzheimer’s disease are 65 years of age or older.³ The mortality rate for persons with Alzheimer’s disease has increased over the last few years. Alzheimer’s disease is now the seventh-leading cause of death in the United States (65,965 deaths reported in 2004). For purposes of comparison, while age-adjusted death rates decreased significantly from 2003 to 2004 for nine of the 15 leading causes of death, significant increases in mortality rates occurred for unintentional injuries, hypertension, and Alzheimer’s disease.⁴

The Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute

The Legislature created the Florida Alzheimer’s Center and Research Institute at the University of South Florida (USF) in 2002, and subsequently renamed it the Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute in 2004, in honor of the late father of Johnnie Byrd, Jr., who was the Speaker of the Florida House of Representatives from 2002-2004.⁵

The Legislature established the institute as a not-for-profit corporation, considered to be an instrumentality of the state, and authorized the institute to create both not-for-profit and for-profit

¹ “Alzheimer’s Disease Fact Sheet,” United States Department of Health and Human Services, National Institute on Aging, July 2006, available at: <http://www.nia.nih.gov/alzheimers/publications/adfact.htm>.

² Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute 2007 Annual Report, on file with Council staff.

³ “Alzheimer’s Disease Facts and Figures 2007,” Alzheimer’s Association, 2007, available at: http://www.alz.org/national/documents/Report_2007FactsAndFigures.pdf.

⁴ “Deaths: Final Data for 2004,” Centers for Disease Control and Prevention, National Center for Health Statistics, accessed 29 March, 2008, available at: <http://www.cdc.gov/nchs/products/pubs/pubd/hestats/finaldeaths04/finaldeaths04.htm>.

⁵ Ch. 2004-2, L.O.F.

subsidiaries, upon approval of the Board of Governors at USF.⁶ The affairs of the not-for-profit corporation are managed by a 16-member board of directors, and a chief executive officer appointed by the board of directors administers the institute. The chief executive officer's duties include:

- Establishing programs that fulfill the mission of the institute in research, education, treatment, prevention, and early detection of Alzheimer's disease.
- Controlling the budget and the monies appropriated to the institute from private, state, local, and federal sources.
- Appointing representatives of the institute to carry out the research, patient care, and educational activities of the institute and establishing the compensation, benefits, and terms of service of the representatives.
- Controlling the use and assignment of space and equipment within the facilities.
- Creating the administrative structure necessary to carry out the mission of the institute.
- Reporting to the Board of Governors or its designees.
- Providing the institute's annual report to the Governor, the Governor's Cabinet, the Legislature, and the chair of the Board of Governors at USF.
- Developing the annual operating budget detailing the planned use of state, federal, and private funds for the fiscal year and submitting it by August 1 of each year to the Governor, the Governor's Cabinet, the Legislature, and the chair of the Board of Governors at USF.

Grants are awarded by the institute's board of directors for the purpose of conducting Alzheimer's disease research, following a review of all research proposals by a peer review panel of independent, scientifically-qualified individuals.

Beginning in Fiscal Year 2006-07, the Legislature appropriated \$15 million in recurring general revenue funds to the Grants and Donations Trust Fund within the Department of Elder Affairs for the institute. During the 2007 Special Session "C" of the Legislature, the amount of general revenue funding appropriated for use by institute was reduced by \$1.5 million, for a total annual appropriation of \$13.5 million. The funding provided to the institute is intended to assist the institute in its efforts in researching, educating, treating, preventing, and detecting Alzheimer's disease, as well as "providing institutional research grants and investigator-initiated research grants, developing and operating integrated data projects, and providing assistance to statutorily-designated memory disorder clinics as provided under s. 430.502, F.S." From this annual appropriation, not less than 80 percent of the funds are to be expended for these statutorily-prescribed purposes, and not less than 20 percent are to be expended in awarding peer-reviewed investigator-initiated research grants.

Effect of Proposed Changes

Transfer of Governance to USF; Dissolution of Corporate Structure; Transfer of Assets

The bill provides that, effective October 1, 2008, the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute is established within the University of South Florida. Related to this establishment, the bill also specifies that all entities created pursuant to s. 1004.445, F.S., prior to October 1, 2008, including a board of directors and any for-profit and not-for-profit corporate subsidiaries, are dissolved and abolished at the same time the institute is established within USF. Moreover, the bill requires that,

⁶ S. 1004.445, F.S.

by this date, the institute is to transfer all unexpended balances, records, functions and assets to USF (including, but not limited to, the facility owned or operated by the not-for-profit corporation created pursuant to s. 1004.445, F.S.). The collective effect of all of these provisions is that governance of the institute is transferred to USF.

Proscription Against Subsequent Contractual Agreements; Final Independent Audit; Legislative Review

The bill requires the institute and its current board of directors, chief executive officer and all corporate subsidiaries to cease entering into contractual arrangements for or on behalf of the institute or any of its corporate subsidiaries unless such agreement is approved by the Board of Trustees at USF. Additionally, the bill directs that the institute shall make all current or outstanding third-party contractual agreements available to the Board of Trustees for review.

The bill requires the current board of directors of the institute and the Board of Trustees at USF to jointly contract, by June 1, 2008, for a final independent audit of all contracts and liabilities of the not-for-profit corporation using the institute's unexpended balances. The bill directs for this audit to be completed by September 1, 2008, and provided to the President of USF, the chair of the Board of Governors, the President of the Senate, and the Speaker of the House of Representatives.

Additionally, the bill provides that the Legislature is to review the institute's performance, outcomes, and financial management during the 2012 Regular Session to determine the most appropriate method of funding the institute beyond June 30, 2012.

New Governance and Structure of the Institute

The bill incorporates a substantial rewording of s. 1004.445, F.S., and indicates the new governance and structure of the institute after it is re-established within USF. The institute's statewide mission is to advance research, education, treatment, prevention, and early detection of Alzheimer's disease, and the bill instructs the institute to collaborate with public and private universities and other appropriate entities on programs directly contributing to the mission and goals of the institute.

The bill specifies that the institute's budget comprises funds donated or appropriated from state, local, federal, and private sources, and includes technical and professional income derived from the institute's practice activities. Moreover, the bill specifies that state funding directly appropriated to the institute shall be used for the following:

- Programs that fulfill the mission of the institute in education, treatment, prevention, and early detection of Alzheimer's disease.
- Developing and operating integrated data projects.
- Providing assistance to statutorily-designated memory disorder clinics.
- Administration, research support, and physical plant operations of the institute's facility on the campus of USF.

Further, the bill prohibits the institute from using state funds to conduct biomedical research, and encourages the institute to seek competitive state funding for biomedical research through the James and Esther King Biomedical Research Program created in s. 215.5602, F.S.

The bill provides that the institute is to be administered through a director of operations, appointed by and serving at the pleasure of the President of USF, or his or her designee. The director of operations is responsible for the following:

- Appointing faculty and staff to carry out the research, patient care, and educational activities of the institute.

- Seeking federal and private sources of grant money and donations for the purpose of funding and conducting Alzheimer's disease research at the institute.
- Preparing an annual report describing the institute's expenditure of funds and research endeavors, and providing a copy of the annual report to the Governor, President of the Senate, Speaker of the House of Representatives, chair of the Board of Governors, and chair of the Board of Trustees of USF.

Additionally, the bill establishes the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute Advisory Council, and directs such council to advise the institute and director of operations on research topics of highest importance and greatest opportunity for the state, as well as effective methods of collaboration with other institutions and entities. Such advisory council is structured to consist of ten members serving at the pleasure of each individual member's appointing authority, and the bill vests the Governor, President of the Senate, and Speaker of the House of Representatives with appointment powers to each appoint to the advisory council:

- One researcher with significant experience in Alzheimer's disease research.
- One licensed physician with significant experience in treating patients diagnosed with memory disorders.
- One representative of a not-for-profit organization the mission of which is to assist persons affected by Alzheimer's disease or similar memory disorders.

The bill provides that the chair of the Board of Trustees at USF shall also appoint one individual who is not an employee of the university to serve as chair of the advisory council.

The bill preserves the public records exemption previously created within s. 1004.445, F.S., relating to client and donor personal identifying information, patient medical records held by the institute, and other information pertaining to methods of manufacture and production.

The bill makes statutory changes to implement funding decisions included in the proposed General Appropriations Act for Fiscal Year 2008-2009. Beginning in Fiscal Year 2008-09, the bill reduces the amount of recurring funding annually appropriated for use by the institute from the General Revenue fund from \$13.5 million to \$3.75 million. The bill provides that such appropriation is to be made annually to the Board of Trustees at USF.

Finally, the bill extends the sunset provision contained in s. 1004.445, F.S., for two years, so that the section expires January 1, 2013, unless reenacted by the Legislature on or before that date.

The bill is effective upon becoming a law, except as otherwise expressly provided.

C. SECTION DIRECTORY:

Section 1. Amends s. 1004.445, F.S., relating to the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute.

Section 2. Dissolves and abolishes all entities formerly created pursuant to s. 1004.445, F.S., effective October 1, 2008.

Section 3. Directs the institute, its board of directors, its chief financial officer, and all corporate subsidiaries to cease entering into contractual agreements for or on behalf of the institute; instructs the institute to make any and all third party contracts available for review by the Board of Trustees of the University of South Florida.

Section 4. Requires the board of directors of the institute and the Board of Trustees of the University of South Florida to contract for an independent audit using the institute's unexpended balances no later than June 1, 2008; provides that such audit is to be completed no later than September 1, 2008, with copies of the audit to be provided to the President of the University of South Florida, the chair of the Board of Governors, the President of the Senate, and the Speaker of the House of Representatives.

Section 5. Requires the institute's board of directors to transfer all unexpended balances, records, functions, and assets of the institute to the University of South Florida by October 1, 2008.

Section 6. Requires the Division of Statutory Revision of the Office of Legislative Services to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of s. 1004.445, F.S., by June 1, 2011; directs the Legislature to review the performance, outcomes, and financial management of the institute during the 2012 Regular Session of the Legislature to determine the most appropriate method of funding the institute.

Section 7. Provides that, except as otherwise expressly provided, the act is effective upon becoming a law.

B. II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill reduces the amount of recurring general revenue funding annually appropriated for the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute from \$13.5 million to \$3.75 million, and specifies that the Board of Trustees of the University of South Florida (and not the Department of Elderly Affairs) shall receive this annual appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill prohibits the institute from conducting biomedical research with state funds, and instead encourages the institute to seek competitive state funding for biomedical research through the James and Esther King Biomedical Research Program pursuant to s. 215.5602, F.S.

D. FISCAL COMMENTS:

None.

C. III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None applicable.

D. IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES