

**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 Governmental Oversight and Accountability Committee

BILL: CS/SB 1304

INTRODUCER: Higher Education Committee and Senator Joyner

SUBJECT: Byrd Alzheimer's Center

DATE: April 7, 2009 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Matthews</u>	<u>HE</u>	<b>Fav/CS</b>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<b>Favorable</b>
3.	_____	_____	<u>HI</u>	_____
4.	_____	_____	<u>WPSC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill would substantially revise the statute that governs the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, to:

- Establish the research institute within the University of South Florida (USF);
- Establish the research institute's statewide mission to advance Alzheimer's disease research and distribute competitive grant funds for such research;
- Create the institute's seven-member board of directors who will be appointed by the Governor, Legislative leaders, and the USF board of trustees to serve four-year terms;
- Authorize the board of directors to appoint an advisory panel to the institute;
- Clarify that the institute's budget will include all state, private, and federal funds provided to the institute or generated from practice activities at the institute;
- Specify the purposes for which any appropriation to the institute must be used;
- Preserve the center's public records exemption for personal identifying information, medical records, materials that relate to methods of manufacture, etc.;
- Delete the prohibition against the CEO establishing academic degree programs;
- Repeal requirements for direct oversight by the Board of Governors (BOG) and delete references to the institute's contract with the BOG;

- Delete the procedures for awarding research grants, the requirements for peer review panels, and the prohibition against conflicts of interest in award decisions; and
- Repeal the 2011 sunset of the institute's statute and the legislative review of the institute's performance, outcomes, and financial management.

This bill amends s. 1004.445, Florida Statutes.

## II. Present Situation:

### **The Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute – Current Law**

A not-for-profit corporation, acting as an instrumentality of the state, governs the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute (institute) in accordance with an agreement with the BOG for the use of the facilities on the campus of the University of South Florida. The agreement must include approval by the BOG of the articles of incorporation of the not-for-profit corporation and its subsidiaries; provisions relating to the use of land, facilities, and personnel; and an annual fiscal audit.

The institute's board of directors is comprised of the president of USF and the chair of the BOG or their designees and 14 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. Five of the appointed members must be representatives of state universities and nine must be representatives of the public who are not medical doctors or state employees.

A chief executive officer, who serves at the pleasure of 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 BOG or its designee;
- Providing the institute's annual report to the Governor and Cabinet, Legislature, and the BOG; and
- 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 and Cabinet, Legislature, and the BOG.

The board of directors must create a council of scientific advisors to assist the chief executive officer. Comprised of leading researchers, physicians, and scientists, the council must review programs and recommend research priorities and initiatives to maximize the state's investment in the institute. Members of the council serve 2-year terms and may be reappointed.

Any university or established research institute in Florida may apply to the institute for funding of their research, and all qualified investigators must have equal opportunity to compete for the research funding. Grants must be awarded by the board of directors on the basis of scientific merit and preference will be given to proposals that foster collaboration among institutions, researchers, and community practitioners. Proposals must be evaluated on the basis of scientific merit by a peer review panel of independent, scientifically qualified individuals appointed by the council of scientific advisors. The council of scientific advisors and the peer review panel must establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest.

The following information held by the institute is confidential and exempt from the public records requirements of s. 119.07(1), F.S., and s. 24, Art. I of the State Constitution: personal identifying information relating to clients of the institute's programs; patients' medical or health records; materials related to methods of manufacture or production, potential and actual trade secrets, or proprietary information; personal identifying information of a donor or prospective donor who wishes to remain anonymous; and any information received from a person from another state or nation which is confidential or exempt under the laws of that state or nation.

Section 1004.445, F.S., sunsets on January 1, 2011, unless reviewed and reenacted by the Legislature before that date.

#### **The Byrd Alzheimer's Current Relationship with USF**

The Byrd Alzheimer's Institute entered into an affiliation agreement with USF that was approved by the respective boards of both parties on July 18, 2008. Pursuant to the agreement, the parties created a Joint Affiliation Board consisting of three members appointed by the chair of the Byrd Institute Board and four members appointed by the chair of the USF board of trustees. The Joint Affiliation Board was delegated the statutory responsibilities, powers, and duties of the Byrd Institute Board; was made responsible for requiring that USF administrative policies relating to finance, audit, personnel, property, and research were followed; and for assuring that funds held by the institute were expended exclusively to benefit the institute's statewide mission. The Joint Affiliation Board also appointed the Dean of the USF College of Medicine as the new chief executive officer of the institute. Under the Joint Affiliation Agreement, the existing Byrd Institute Board continues to function in an advisory/advocacy capacity and the Council of Scientific Advisors is retained. The Joint Affiliation Agreement further provides that the Byrd Institute facility on the USF campus is for the exclusive use of operating the institute and that any appropriation to the institute would be paid directly to the Byrd Institute Board.

### **III. Effect of Proposed Changes:**

The bill revises the statute that governs the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, to establish the institute within the University of South Florida. The bill establishes the statewide mission of the institute—to advance research, education, treatment, prevention and early detection of Alzheimer's disease and to distribute competitive grant funds for Alzheimer's disease research.

The bill would create a seven-member board of directors for the institute to be appointed by the Governor, Legislative leaders, and the USF board of trustees to serve four-year terms. The board

of directors could appoint an advisory panel to advise the board and the institute's CEO regarding the institute's statewide mission;

The institute's budget would include all state, private, and federal funds provided to the institute or generated from practice activities at the institute. The bill specifies that any appropriation to the institute must be expended for conducting and supporting research and related clinical services, awarding research grants to other persons in the state through a competitive process, developing and operating integrated data projects, operating the institute, and providing assistance to memory disorder clinics.

The bill would delete the prohibition against the CEO establishing academic degree programs and would authorize the CEO to appoint faculty and staff.

The bill would repeal requirements for oversight of the institute by the BOG and delete references to the institute's contract with the BOG. As a part of USF, the institute would be subject to the board's right to receive annual audit reports, data relative to the operation of the institute, and budgetary information.

The bill preserves the institute's public records exemption.

The bill would repeal the 2011 sunset of the institute's statute and the legislative review of the institute's performance, outcomes, and financial management.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

Currently, the Byrd Alzheimer's Institute does not receive a state appropriation.

According to the BOG, if USF requested operating funds for the Byrd Alzheimer's Institute in their legislative budget request for Plant Operation and Maintenance funding, based on cost factors for fiscal year 2009-2010, the request could be \$1.9 million.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Higher Education on March 18, 2009:**

The Committee Substitute would not create a not-for-profit corporation to run the institute. The bill deletes all references to the institute's contract with the BOG because the bill places the institute within the University of South Florida.

Members of the institute's board of directors would serve 4-year terms rather than 5-year terms. The institute's current board of directors would have to transfer funds, records, functions, facilities, and assets to USF under the oversight of the Byrd Alzheimer's Institute board of directors created in this bill. The USF board of trustees, rather than the chair of that board, would appoint four members to the institute's board of directors. The institute's board of directors is not required to appoint an advisory council but is authorized to do so.

The CEO is not required to make faculty and staff salaries consistent with university policies.

B. **Amendments:**

None.