

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2540

SPONSOR: Commerce and Economic Opportunities Committee and Senator Bronson

SUBJECT: Commercial Space Industry

DATE: April 16, 1999 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u>Hayes</u>	<u>Hadi</u>	<u>FP</u>	<u>Fav/3 amendments</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute (CS) contains the following tax provisions applicable to the Spaceport Florida Authority (SFA) and space-related businesses:

- expands federal defense and space property tax exemptions to the SFA;
- provides a sales tax exemption on leases from the SFA of property used for spaceport activities;
- redirects sales tax from the Kennedy Space Center (KSC) bus tours to the Florida Space Industry and Research Facility Development Program to finance space industry research, manufacturing, and other industrial support facility projects and programs; and
- revises an existing sales tax exemption for industrial machinery and equipment used in connection with spaceport activities.

This CS provides for the participation of the Spaceport Florida Authority in the following areas:

- adds the SFA to a list of governmental economic development agencies identified that may keep business information confidential;
- adds SFA to the definition of “Government Agency” for the purpose of operating SFA as a Foreign Trade Zone;
- adds the SFA to a named list of governmental and economic development organizations that may apply for international trade grants;
- allows the SFA employees to participate in the state employee education tuition waiver program; and
- gives SFA the authority to act as a local government to execute “road fund” projects and become a contracting agency for transportation projects within spaceport territory.

This CS creates and funds the following space-related programs:

- creates the Spaceport Facility Loan Guarantee Program to guarantee private loans for space-related projects. Approval of a loan guarantee shall be by an Aerospace Facility Financing Review Council, using the investment of the earnings accrued and collected upon the investment of the balance of funds maintained in the Working Capital Fund. New loan guarantees may not be approved in FY 2004 until a review by the Legislature affirms the appropriateness of continuing the use of the Working Capital Fund to guarantee private loans;
- creates the Florida Commercial Space Financing Corporation for the purpose of receiving funds to promote the commercial space industry in the state and appropriates \$5 million from the General Revenue Fund to the Florida Commercial Space Financing Corporation Trust Fund for project financing. This bill also appropriates \$500,000 from the General Revenue Fund for the Florida Commercial Space Financing Corporation for corporate operations. The account shall be under the exclusive control of the board of directors of the Florida Commercial Space Financing Corporation;
- creates an account for the Florida Commercial Space Financing Corporation within a qualified depository under the responsibility of the board of supervisors for the Spaceport Florida Authority;
- creates the Florida Space Industry and Research Facility Development Program to finance space industry research, manufacturing, and other industrial support facility projects and programs. This program will be funded in part by reallocating approximately \$5 million annually from state sales taxes generated at the Kennedy Space Center Visitor Complex to be deposited in the Florida Commercial Space Financing Corporation Trust Fund;
- creates the Spaceport Management Council within the Spaceport Florida Authority to provide coordination and recommendations on projects and activities that will increase the operability and capabilities of Florida's space launch facilities. The Spaceport Management Council will direct funds raised through the Kennedy Space Center Visitor Complex sales tax reallocation; and
- creates the Florida Space Research Institute as a Type I institute under the Board of Regents at the University of Florida. The institute will function as the academic center for space-related research and development. Florida State University, the University of Central Florida, the Florida Institute of Technology, and the University of Miami shall serve as partners in the institute and the institute, may establish regional centers at such institutions.

This CS amends sections 196.012, 212.031, 212.08, 212.20, 288.063, 288.075, 288.35, 288.9415, 331.305, and 331.309; and creates sections 331.365, 331.367, 331.3475, 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, 331.419, and 331.421, Florida Statutes.

II. Present Situation:

Spaceport Florida Authority

Part II, of ss. 331.301 through 331.360, of ch. 331, F.S., known as the "Spaceport Florida Authority Act" (act), created the Spaceport Florida Authority (SFA), which has been in existence since 1989. The purpose of the act is to provide a unified direction for space-related economic growth and educational development, to ensure a stable and dynamic economic climate, to attract and maintain space-related businesses suitable to the state, and to further the coordination and

development of Florida's economy. To that end, the SFA works through the direction of its board of supervisors, with the federal government, private industry, and Florida's universities to develop and expand spaceport facilities, space launch capacity, spaceport projects, and complementary activities. The SFA also works with public and private universities and community colleges in the state to increase their involvement in space-related research and education.

The Spaceport Florida Authority's executive director reports to a nine-member board of supervisors appointed by the Governor and the Legislature. Seven board members are appointed by the Governor, serving two and three-year terms. One board member is appointed by the President of the Senate, and one board member is appointed by the Speaker of the House of Representatives. These legislative appointees are non-voting members of the board.

The Department of Transportation (DOT) has the statutory responsibility for site approval and licensing of airports. DOT's aviation program provides planning, technical, and financial assistance to the state's system of airports. In addition to local funding, airport projects receive funding from both the federal Airport and Airway Trust Fund and the State Transportation Trust Fund. Airport related tax and fee revenue from aviation fuel taxes, ticket taxes, and passenger facility charges are deposited in these trust funds, providing a nexus between fees paid by system users and aviation project funding. Pursuant to statutory authorization, DOT has entered into joint participation agreements with the SFA to help implement the Spaceport Florida Authority Act. DOT is expressly prohibited from funding the administrative or operational costs of the SFA.

According to the Spaceport Florida Authority's 1998 Annual Report, "The space industry is one of Florida's largest high technology employers and has been identified as one of the state's targeted industries. Commercial, governmental and academic space activities in the state amount to about \$3 billion per year. In addition to high paying jobs, the industry brings broadly distributed tax revenues, academic opportunities, increased tourism, and spinoff industrial development."

Economic Development Programs

The Office of Tourism, Trade, and Economic Development (OTTED) is authorized by s. 14.2015, F.S., to administer various programs, grants, and activities. In addition to the duties and responsibilities provided under that statute, OTTED has been assigned, through other statutory provisions, responsibility for administration of various other programs and activities. Some of the principal economic development programs administered by OTTED include: Qualified Target Industry (QTI) tax refund program, qualified defense contractors, high impact performance incentives, base realignment and closure grants, defense planning grants, defense implementation grants, military installation reuse planning/marketing grants, defense related business adjustment grants, urban high crime tax credit, rural area tax credit, WAGES pilot matching grants, silicon technology sales tax exemption, brownfield redevelopment, brownfield area guaranteed loan fund, and expedited permitting.

OTTED approves economic development transportation projects pursuant to s. 288.063, F.S., by contracting with local governments and considering the merits of their application. Among the criteria by which transportation projects are to be considered are local conditions such as: the demonstrated local commitment; the location of the project in an enterprise zone; the location of

the project in a community development corporation service area; the unemployment rate of the surrounding area; and the poverty rate of the community.

Section 288.075, F.S., regarding confidentiality of certain economic development records, provides that an “economic development agency” which provides information concerning plans, intentions, or interests of such private corporation partnership, or person to locate, relocate, or expand any of its business activities in this state are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 24 months after the date an economic development agency receives a request for confidentiality.

Section 288.35, F.S., regarding the designation of foreign trade zones defines, “government agency” as “the state or any county or political subdivision thereof; any state agency; any consolidated government of a county, and some or all of the municipalities located within said county; any chartered municipality in the state; and any of the institutions of such consolidated government, counties, or municipalities. Specifically included are airports, port authorities, and industrial authorities.” Section 288.36, F.S., specifies that a government agency shall have the power to apply to the proper U.S. authorities to operate a foreign trade zone.

Section 288.9415, F.S., allows OTTED to administer grants for promotion of international trade. Eligible applicants are limited to a county, municipality, economic development council, or a not-for-profit association of businesses organized to assist in the promotion of international trade. The International Trade and Economic Development Board of Enterprise Florida, Inc., reviews applications and submits annually a list of all recommended applications to OTTED.

Sales and Use Tax

Unless specifically exempt, Florida imposes a sales and use tax that applies to receipts from the sale, storage, and use of tangible personal property and services pursuant to ch. 212, F.S. This tax applies to purchases made by space-related companies. Sales transactions to political subdivisions are generally exempt (s. 212.08(6), F.S., 1998 Supp.).

Section 212.08(5)(b), F.S., provides that industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities, items of tangible personal property are exempt from sales tax. A similar exemption is provided for such machinery and equipment purchased for use in expanding facilities.

Property Taxation

Section 196.001, F.S., provides that the following property is taxable, unless specifically exempted:

- All real and personal property in the state belonging to persons residing in this state; and
- All leasehold interests in property of the United States, of the state, or any political subdivision, municipality, agency, authority, or other public body corporate of the state.

Section 196.199, F.S., provides the conditions under which property owned and used by governmental units is exempt from taxation. Paragraphs (a) and (b) of subsection (1) exempt from ad valorem taxation property owned by the United States, with certain exceptions, and property of the state used for governmental purposes.

Section 196.012(6), F.S., defines the term “governmental, municipal, or public purpose.” Among other provisions, this section specifies that the term “governmental purpose” includes direct use of property on federal lands in connection with the Federal Government’s Space Exploration Program. In addition, the statute specifies that real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes shall be deemed to perform an essential national governmental purpose and shall be exempt.

III. Effect of Proposed Changes:

Section 1 amends s. 196.012, F.S., to expand federal defense and space property tax exemptions to include property owned by the SFA. Defines spaceports as transportation facilities similar to airports and ports.

Section 2 amends s. 212.031, F.S. (1998 Supp.), to provide a sales tax exemption on leases from the SFA of property used for spaceport activities.

Section 3 amends s. 212.08, F.S. (1998 Supp.), to specify that industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities are exempt from sales tax. This section similarly specifies an exemption for such machinery and equipment purchased for use by an expanding facility which is engaged in spaceport activities.

Section 4 amends s. 288.063, F.S. (1998 Supp.), to give the SFA the authority to act as a local government to execute “road fund” projects and become a contracting agency for transportation projects within spaceport territory. Puts projects in a spaceport on a special consideration level similar to enterprise designations, community development corporation service areas, or high unemployment/poverty areas.

Section 5 amends s. 288.075, F.S., to add the Spaceport Florida Authority to a list of economic development agencies that may keep information confidential regarding the location or expansion plans of a business.

Section 6 amends s. 288.35, F.S., to add the Spaceport Florida Authority to the definition of “government agency” for the purpose of operating the SFA as a foreign trade zone.

Section 7 amends s. 288.9415, F.S., to add the Spaceport Florida Authority to a named list of governmental and economic development organizations that may apply for international trade promotion grants.

Section 8 amends s. 331.305, F.S., to allow Spaceport Florida Authority employees to participate in the state employee university tuition waiver program established under s. 110.1099, F.S.

Section 9 amends s. 331.309, F.S. (1998 Supp.), to create an account for the Florida Commercial Space Financing Corporation within a qualified depository under the responsibility of the board of supervisors for the Spaceport Florida Authority. (See section 11 of the committee substitute, which creates the Florida Commercial Space Financing Corporation Act.)

Section 10 creates s. 331.3475, F.S., to create the Spaceport Facility Loan Guarantee Program to guarantee private loans for aerospace facilities. Approval of a loan guarantee shall be by an Aerospace Facility Financing Review Council, consisting of the Secretary of Transportation, the Executive Director of the State Board of Administration, and the director of the Governor's Office of Tourism, Trade, and Economic Development or each of their designees. SFA is allowed to enter into an investment agreement with the Department of Revenue or the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the balance of funds maintained in the Working Capital Fund. Not more than \$100 million of the investment earnings earned on the investment of the minimum balance of the Working Capital Fund in a fiscal year may be at risk at any time on loan guarantees or as loan loss reserves. New loan guarantees may not be approved in FY 2004 until a review by the Legislature affirms the appropriateness of continuing the use of the Working Capital Fund to guarantee private loans.

Section 11 creates Part III of ch. 331, F.S., consisting of ss. 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, 331.419, and 331.421, F.S., to be cited as the "Florida Commercial Space Financing Corporation Act." The Florida Commercial Space Financing Corporation is created for the purpose of receiving funds to promote the commercial space industry in the state. The funds shall be under the exclusive control of the board of directors of the corporation.

This section of the committee substitute: provides legislative findings and intent; provides definitions; creates the Florida Commercial Space Financing Corporation, which, among other powers, has the authority to insure, co-insure, lend, guarantee loans, and to originate for sale direct space-related loans; delineates the powers of the corporation, the board, and the president; authorizes the board to create an account to receive funds; and provides for reports and audits of the corporation. In addition, the committee substitute provides that the Spaceport Florida Authority may pledge certain existing or future revenues in order to guarantee the payment of principal and interest on a loan made by the corporation.

Section 12 creates s. 331.365, F.S., to create the Florida Space Industry and Research Facility Development Program to finance space industry research, manufacturing, and other industrial support facilities, projects, and programs. This program will be funded by reallocating approximately \$5 million annually from state sales taxes generated at the Kennedy Space Center Visitor Complex.

Section 13 amends s. 212.20, F.S., relating to the distribution of sales tax revenue, to ensure that the reallocation of sales tax in section 12 above provides at least \$4 million each fiscal year to the Florida Space Industry and Research Facility Development Program. The committee substitute provides that if proceeds fail to reach \$4 million in any fiscal year, additional proceeds shall be distributed to SFA to assure such minimum distribution.

Section 14 creates s. 331.367, F.S., to create the Spaceport Management Council within the Spaceport Florida Authority to provide coordination and recommendations on projects and activities that will increase the operability and capabilities of Florida's space launch facilities. The Spaceport Management Council will direct funds raised through the sales tax reallocation.

Section 15 creates the Florida Space Research Institute as a Type I institute under the Board of Regents at the University of Florida. The institute will function as the academic center for space-related research and development. Florida State University, the University of Central Florida, the Florida Institute of Technology, and the University of Miami shall serve as partners in the institute, and the institute may establish regional centers at such institutions.

Section 16 appropriates \$5 million from the General Revenue Fund to the Florida Commercial Space Financing Corporation Trust Fund for project financing. This section also appropriates \$500,000 from the General Revenue Fund for the Florida Commercial Space Financing Corporation for corporate operations.

Section 17 provides that this act shall take effect July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This committee substitute (CS) initially falls under subsection (b) of s. 18 of Art. VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By authorizing exemptions from sales taxes, the CS has the effect of authorizing exemptions from local option county sales surtaxes. Because the total cost of this CS to local municipalities and counties is unknown, it is uncertain if the CS is exempt from the requirements of subsection (b) of s. 18 of Art. VII. (See subsection (d) of s. 18 of Art. VII, providing exemptions from requirements of section 18 for general laws with an insignificant fiscal impact.)

This CS has not been reviewed by the Revenue Estimating Conference, and it is unclear if the local fiscal impact would be insignificant.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

This bill has not been reviewed by the Revenue Estimating Conference, and it is unclear how significant the local fiscal impact would be. This CS includes the following tax exemptions:

- expands federal defense and space property tax exemptions to the SFA;
- provides a sales tax exemption on leases from the SFA of property used for spaceport activities;
- redirects sales tax from the Kennedy Space Center (KSC) bus tours to the Florida Space Industry and Research Facility Development Program; and
- revises an existing sales tax exemption for industrial machinery and equipment used in connection with spaceport activities.

B. Private Sector Impact:

This CS contains substantial tax exemptions, grants, subsidized facilities, and research assistance for space related activities and businesses.

C. Government Sector Impact:

Section 4 gives the SFA the authority to act as a local government to execute “road fund” projects and become a contracting agency for transportation projects within spaceport territory.

Section 8 allows the Spaceport Florida Authority employees to participate in the state employee education tuition waiver program.

Section 12 reallocates approximately \$5 million annually from state sales taxes generated at the Kennedy Space Center Visitor Complex to the Spaceport Florida Authority for the Florida Space Industry and Research Facility Development Program. The SFA shall place all such funds in a segregated account.

Section 16 appropriates \$5 million from the General Revenue Fund to the Florida Commercial Space Financing Corporation Trust Fund for project financing. This section also appropriates \$500,000 from the General Revenue Fund for the Florida Commercial Space Financing Corporation for corporate operations.

VI. Technical Deficiencies:

It appears that the reference to “the Auditor General” on page 31, line 11, of the committee substitute should in fact be a reference to the Office of Program Policy Analysis and Government Accountability.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Policy Committee:

This amendment deletes the appropriation of \$5.5 million in section 16 of this legislation, and provides that implementation of section 331.3475, F.S., creating the Spaceport Facility Loan Guarantee Program and the implementation of part III of Chapter 331, F.S., creating the “Florida Commercial Space Financing Corporation Act” are contingent upon a specific appropriation for FY 1999-00.

#2 by Fiscal Policy Committee:

This amendment creates the Florida Space Research Institute to serve as an academic center of excellence to be managed by the University of Florida for sponsored research and development activities supporting the space industry. It also requires an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

#3 by Fiscal Policy Committee:

This amendment creates the Florida Commercial Space Development Incentive Program within the Office of Tourism, Trade, and Economic Development. The amendment provides for funding the Incentive Program from the State Transportation Trust Fund.