

STORAGE NAME: h0815s2a.ted

DATE: April 20, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/CS/HB 815

RELATING TO: Florida Space Transportation Planning Act

SPONSOR(S): Committee on Business Development & International Trade and Committee on Transportation and Representative Futch and others

COMPANION BILL(S): SB 1254 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 8 NAYS 3
 - (2) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 7 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 10 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

This bill creates the "Florida Space Transportation Planning Act." The bill is intended to address a wide array of issues concerning planning, developing, improving and expansion of space transportation facilities. Major provisions of the bill:

1. Exempt airports under the jurisdiction or control of the Spaceport Florida Authority (SFA) from airport site approval and licensing requirements of the Department of Transportation (DOT).
2. Expand the boundaries of spaceport territory under the jurisdiction of the Spaceport Florida Authority (SFA).
3. Require development of a spaceport master plan by the SFA, including recommended sources of revenue to finance the plan.
4. Direct the Department of Transportation (DOT) to promote and develop aerospace transportation facilities.
5. Create the Spaceport Facility Loan Guarantee Program. **(See part VI.)**
6. Provide a sales tax exemption for people mover systems. **(See part VI.)**

This bill requires the SFA to develop a spaceport master plan containing recommended funding levels for projects to meet current and future commercial, national and state space transportation requirements and to identify appropriate sources of funding. The authority is required to submit the master plan to DOT, and DOT may include the plan in the department's 5-year work program. Because aerospace programs may be included with existing airport and aviation programs, there could be less funds available for other modes of transportation, primarily the state's aviation system.

The bill does not address the issue of rulemaking. The bill provides an effective date of July 1, 1999.

[Note: See part VI. Amendments or Committee Substitute Changes for effects of amendments adopted by the Committee on Transportation & Economic Development Appropriations on April 20, 1999.]

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Part II, ss. 331.301 through 331.360, of Chapter 331, F.S., known as the "Spaceport Florida Authority Act" (the "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 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 Authority's executive director reports to a nine-member board of supervisors appointed by the governor and 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.

DOT has the statutory responsibility for site approval and licensing of airports. In addition, 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 (STTF). 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.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the "Florida Space Transportation Planning Act." The bill's primary effect is to incorporate and integrate the state's space program as administered by the SFA into the state's aviation program as administered by DOT. The bill also makes numerous technical, clarifying and conforming changes.

The bill provides that airports under the jurisdiction or control of the SFA are exempted from laws providing for DOT approval of airport sites and licensing of airports. Additionally, current Spaceport territory in Brevard County is expanded by the bill to include Patrick Air Force Base, Cape Canaveral Air Station, and Kennedy Space Center. Further, Eglin Air Force Base in Santa Rosa, Okaloosa and Walton Counties is added to the Spaceport's jurisdiction.

The bill directs the SFA to develop a spaceport master plan, which will contain recommended projects to meet current and future space industry requirements. In the master plan, the SFA will identify appropriate funding levels and funding sources for the plan, including recommendations on sources of revenue to be developed for the STTF. The SFA recommended projects are required to be submitted to DOT for possible inclusion in their 5-year work program. DOT's annual legislative budget request is required by the bill to be based on the funding requested for approved spaceport discretionary capacity improvement projects. DOT is directed by the bill to promote the development of aerospace facilities, to address intermodal requirements of space facilities, and to assist in the development of joint-use facilities and technology that support aviation and space operations. The laws related to the transportation planning functions of DOT and of Metropolitan Planning Organizations are also modified by the bill to include references to spaceport facilities.

The bill also creates a new section of law, s. 332.009, F.S., which provides that the provisions of chapter 332, F.S., are not to be construed to authorize the expenditure of aviation fuel tax revenues on space transportation projects, and not to be construed to limit DOT's authority to enter joint participation agreements with SFA. However, aviation fuel tax revenue is currently deposited into the STTF without restriction on the type of transportation use for which the funds may be used. DOT policy requires that aviation funding levels be at least equal to revenue from aviation fuel taxes, but in

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recent years DOT aviation funding levels have far exceeded aviation fuel tax revenues. Because current law does not restrict the expenditure of aviation fuel tax revenues in the STTF to aviation projects, the effect of this provision is unclear.

Pursuant to s. 196.199, F.S., leasehold interests in property of the United States, of the state or any of its political subdivisions, or of municipalities, agencies, authorities, and other public bodies of the state are exempt from ad valorem taxation when the lessee performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6), F.S. In such cases, all other interests in the leased property are also exempt from ad valorem taxation. The bill amends this provision defining "governmental, municipal, or public purpose" to include aerospace operations at spaceports, thereby exempting such property and leasehold interests from taxation.

Additionally, the newly-created spaceport facility loan guarantee program allows for the SFA to determine the situations and circumstances for its participation in agreements with the Federal Government, financial institutions, and others associated with the development of aerospace facilities for a limited state guaranty of up to 30 years of loan guarantees or loan loss reserves issued pursuant to the law. The loan guarantee applies only to primary lender loans for specified projects in spaceport territories where a federal agency, entity, or contractor is the leaseholder. Approval of the proposed loan guarantee has to be by the Aerospace Facility Financing Review Council which consists of: the Secretary of DOT, or the Secretary's designee; the Executive Director of the State Board of Administration, or the Director's designee; and the Director of OTTED, or the Director's designee.

The SFA may enter into an agreement with the Department of Revenue and/or the State Board of Administration concerning the investment of the balance of funds maintained in the Working Capital Trust Fund. The investment is limited as follows:

- ◆ Not more than \$100 million of the investment earnings earned on the investment of the minimum balance of the Working Capital Trust Fund in a fiscal year may be at risk at any time on loan guarantees or as loan loss reserves.
- ◆ The investment earnings may not be used to guarantee any loan guaranty or loan loss reserve agreement longer than 30 years.
- ◆ A lender seeking approval of a limited state guaranty for a loan from the Aerospace Facility Financing Review Council must provide to the SFA and the Council a report demonstrating the lender's review of the project and the lender's determination of its feasibility in accordance with its standard procedures. The procedures include:
 - (a) Obtaining a satisfactory credit report from a source deemed reliable by the lender.
 - (b) Investigating the background and experience of the manager of the project and determining the managing entities' experience, competence, and capacity to manage the project.
 - (c) Determining that conditions exist establishing a financially sound development project exposing the state loan guarantee program to reasonable or negligible risk.
 - (d) Determining that the federal agency with jurisdiction over the project has committed in-kind resources, financial incentives, or financial resources to the total project cost.
 - (e) Evaluating prospects for continued funding of the program(s) that will be primary users of the project.

Default is mitigated by requiring that a lender exhaust all reasonable and normal remedies available and customary for lending institutions to resolve problems of loan repayments and by providing the council with the authority to establish requirements for the issuance of loan guarantees, including contractual provisions to foster reimbursements in the event of default. The council is allowed to receive donations of public and private funds and the SFA is directed to include their activities in this area in their annual report to the Legislature. A review of the loan guarantee program is required by October 1, 2004.

Finally, a sales tax exemption would be created for people mover systems. People mover systems include wheeled passenger vehicles and related control and power distributions systems which are a part of the transportation system for use by the general public regardless of whether or not the system is driverless, operator controlled, self-propelled or propelled by external power

and control systems; or conducted on roads, rails, guidebeams, or other permanent structures which are an integral part of the transportation system. The exemption would take effect upon the act becoming law; however, any tax collected prior to July 1, 1999, shall be remitted to the department and any tax collected or remitted shall not be subject to refund. The remaining provisions of the act take effect July 1, 1999.

[Note: See part VI. Amendments or Committee Substitute Changes for effects of amendments adopted by the Committee on Transportation & Economic Development Appropriations on April 20, 1999.]

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The SFA is required to develop a spaceport master plan.

DOT is directed to promote and develop aerospace transportation facilities, and must include the spaceport master plan projects in DOT's 5-year work program.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 196.012, 330.30, 331.303, 331.304, 331.360, 334.03, 339.155, 339.175, and 212.08, F.S. are amended; and ss. 331.3475 and 332.009, F.S., are created by the bill.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 - Provides the short title of the bill as the "Florida Space Transportation Planning Act."

Section 2 - Amends s. 196.012(6), F.S., providing that leases of real property of the SFA for aerospace purposes are a governmental, municipal or public purpose. This exempts the property and the leasehold interest from taxation.

Section 3 - Amends s. 330.30(3)(d), F.S., expanding the current exemption for airports under the jurisdiction or control of a county or municipal aviation authority or port authority from licensure requirements of the department to include any airport under the jurisdiction or control of the Spaceport Florida Authority.

Section 4 - Amends s. 331.303, F.S., providing a definition for "Spaceport discretionary capacity improvement project" to mean capacity improvement projects which enhance space transportation capacity at spaceports having had at least one orbital or suborbital flights in the previous calendar year or having a written agreement for the installation of at least one regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.

Section 5 - Amends s. 331.304(1)&(2), F.S., expanding the boundaries of spaceport territory under the jurisdiction of the SFA.

Section 6 - Creates s. 331.3475, F.S., providing for the Spaceport facility loan guarantee program.

Section 7 - Amends s. 331.360, F.S., directing the SFA to develop a spaceport master plan of recommended projects, requiring the master plan to be submitted to MPO's, and to DOT; and providing that the plan may be included in the department's 5-year work program. Directs DOT to promote and develop aerospace transportation facilities.

Section 8 - Creates s. 332.009, F.S., providing that the provisions of Chapter 332, F.S., are not to be construed to authorize the expenditure of aviation fuel tax revenues on space transportation projects, and are not to be construed to limit the DOT 's authority to enter joint participation agreements with SFA.

Section 9 - Amends s. 334.03(31), F.S., changing the definition of "Transportation facility" to include any means of transporting people *or* property - instead of people *and* property.

Section 10 - Amends s. 339.155, F.S., modifying language relating to the transportation planning functions of DOT to include references to spaceport facilities.

Section 11 - Amends s. 339.175(2),(5),(6),(7),&(9), F.S., modifying language relating to the transportation planning functions of an MPO to include references to spaceport facilities; and to allow for an SFA official to be part of an MPO's apportioned voting members.

Section 12 - Amends s. 212.08(7), F.S., creating a sales tax exemption for people mover systems.

Section 13 - Provides an effective date of July 1, 1999, except for section 12 of the bill which contains the tax exemption for people mover systems. Section 12 is effective when the bill becomes a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate, see part D. Fiscal Comments.

2. Recurring Effects:

Indeterminate, see part D. Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

Indeterminate, see part D. Fiscal Comments.

4. Total Revenues and Expenditures:

Indeterminate, see part D. Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

The SFA has the potential of providing significant infrastructure, access and operational support for a number of private space vehicle programs. To the extent that this bill expands the role and resources of the SFA, the private space industry will benefit.

3. Effects on Competition, Private Enterprise and Employment Markets:

The Spaceport Authority provides financing, advocacy, technical support, business incentives, and facility and infrastructure development for space-related projects. To the extent that this bill expands the role and resources of the SFA, more private space-related firms may move to or remain in Florida, resulting in a positive impact in job creation and retention.

D. FISCAL COMMENTS:

This bill requires the SFA to develop a spaceport master plan containing recommended funding levels for projects to meet current and future commercial, national and state space transportation requirements and to identify appropriate sources of funding. The authority is required to submit the master plan to DOT and DOT *may* include such plan in the department's 5-year work program. If DOT includes the SFA's plan in their 5-year work program, there could be less funds available for other modes of transportation, primarily the state's aviation system.

The bill provides that the provisions of chapter 332, F.S., are not to be construed to authorize the expenditure of aviation fuel tax revenues on space transportation projects, and not to be construed to limit DOT's authority to enter joint participation agreements with SFA. However, aviation fuel tax revenue is currently deposited into the STTF without restriction on the type of transportation use for which the funds may be used. DOT policy requires that aviation funding levels be at least equal to revenue from aviation fuel taxes, but in recent years DOT aviation funding levels have exceeded aviation fuel tax revenues. Because current law does not restrict the expenditure of aviation fuel tax revenues in the STTF to aviation projects, the fiscal impact of this provision is unclear.

The SFA recently submitted a report to the Legislature describing the state-level support requested to allow the SFA to expand and diversify the state's space industry. The report recommended state investment of over \$40 million for spaceport projects including development of a mission management center and an academic support center, and development of a research park at Kennedy Space Center. The preliminary conference report on the General Appropriations Act for fiscal year 1999-2000 contains a lump sum allocation of \$720,000 for SFA Operations, \$560,000 for the Reusable Launch Vehicle Program, \$1,120,000 for the RLV Hangar Addition, and \$1,416,000 for Strategic Planning/Grants/Site Development. The conference report also provides budget flexibility to the Executive Office of the Governor to modify the budget allocation to these programs through the budget amendment process provided in Chapter 216, Florida Statutes.

CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

E. APPLICABILITY OF THE MANDATES PROVISION:

N/A

F. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

G. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

IV. COMMENTS:

According to the SFA, this bill is intended to integrate space transportation requirements within DOT, and to adjust territorial boundaries of the SFA to serve the needs of VentureStar and other reusable rockets.

The bill may be *technically* deficient in the language creating the sales tax exemption.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Committee on Transportation report:

The House Committee on Transportation considered HB 815 on March 17, 1999. The committee adopted a series of amendments as follows:

Amendment 1: Directed that the spaceport master plan include recommendations on sources of revenue to be developed for the State Transportation Trust Fund.

Amendment 2: This amendment was withdrawn from consideration.

Amendment 3: Provided that the SFA is not liable for pre-existing soil or groundwater contamination on property of the authority due solely to ownership.

Amendment 4: Provided that leases of real property of the Spaceport for aerospace purposes is a governmental, municipal or public purpose. This exempts the property and the leasehold interest from taxation.

Amendment 5: Clarified that legislatively appointed members of the SFA's board do not require Senate confirmation; and made these legislators voting members of the board. Makes other clarifying and technical changes.

Amendment 6: Provided that the provisions of chapter 332, F.S., are not to be construed to authorize the expenditure of aviation fuel tax revenues on space transportation projects, and not to be construed to limit DOT's authority to enter joint participation agreements with the SFA.

The bill as amended was reported favorably as a committee substitute.

House Committee on Business Development and International Trade Report:

On April 7, 1999, the Committee on Business Development and International Trade passed CS/HB 815 with one strike-everything amendment and two amendments to the strike-everything. The committee made the bill a committee substitute.

Amendment number 1 , (the strike-everything amendment), adopted by the committee provided the following:

- ◆ Leases of real property of the SFA for aerospace purposes is considered a governmental, municipal or public purpose, thereby exempting the leasehold interest from taxation.
- ◆ Airports under the jurisdiction or control of the SFA are exempt from licensure requirements by DOT.
- ◆ A definition of "Spaceport discretionary capacity improvement projects."
- ◆ The expansion of spaceport territory boundaries under the jurisdiction of the SFA.
- ◆ Direction to the SFA to develop a spaceport master plan that may be included in the DOT's 5-year plan.
- ◆ Limitations on the provisions of Chapter 332, F.S., relating to the department's expenditures of aviation fuel tax revenues; and the department's authority to enter into agreements with the SFA.

- ◆ The definition for "Transportation facility" is changed to mean ...any means of transporting people or property - instead of people *and* property.
- ◆ Language relating to the transportation planning responsibilities of DOT and of an MPO is expanded to provide consideration of spaceport facilities and the SFA.

Amendment number 2, (adopted to the strike-everything amendment), provided for the Spaceport Facility Loan Guarantee Program.

Amendment number 3, (adopted to the strike-everything amendment), provided a sales tax exemption for people mover systems.

See Effect of Proposed Changes (Section 11.B.) and Section by Section analysis (Section II.E.), for more detail.

On April 20, 1999, the Committee on Transportation & Economic Development Appropriations adopted three amendments. The amendments made the following changes:

Amendment 1: removed provisions creating a Spaceport Facility Loan Guarantee Program.

Amendment 2: removed provisions providing a sales tax exemption for people mover systems.

Amendment 3: added a provision to allow certain fixed-guideway transportation systems to operate at any safe speed, notwithstanding section 341.327, F.S.

VI. SIGNATURES:

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