

**STORAGE NAME:** h0815s1.tr

**DATE:** March 22, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** CS/HB 815

**RELATING TO:** Florida Space Transportation Planning Act

**SPONSOR(S):** Committee on Transportation and Rep. 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
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**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 spaceports licensed by the Federal Aviation Administration (FAA) from airport site approval and licensing requirements.
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. Include space transportation as a part of DOT's aviation program for system planning, and project development and financing purposes.

This bill requires the Spaceport Florida Authority (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 to be included in the department's 5-year work program. Since the bill specifically allows for aerospace programs to be included with existing airport and aviation programs, there will be less funds available for other modes of transportation, primarily the state's aviation system.

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 members 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 membership of the SFA board of supervisors is revised by the bill to clarify that members appointed by the Legislature are not subject to Senate confirmation, and to delete obsolete statutory provisions related to initial member terms and meetings of the board. The bill also makes the legislative appointees to the board voting members.

The bill provides that spaceports licensed by the Federal Aviation Administration are exempted from laws providing for DOT approval of airport sites and licensing of airports. 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 and Homestead Air Reserve Base in Dade County are added to the Spaceport's jurisdiction. The SFA's authority to exercise eminent domain powers is modified to include any part of the state. The bill also deletes a prohibition on the SFA engaging in the business of furnishing electric power in areas annexed by the SFA.

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 included in DOT's 5-year work program. DOT's annual legislative budget request is required by the bill to include funding for the space projects in DOT's work program. 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. In addition, DOT's aviation enabling legislation is modified so that SFA programs and projects would be eligible for DOT's aviation planning, development and funding

program. 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 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.

Currently s. 334.27, F.S., provides that when property is acquired for transportation purposes, governmental transportation entities are not liable for preexisting pollution contamination under Chapters 376 and 403, F.S., due solely to ownership. The term "governmental transportation entity" means DOT; a city; a county; an airport; a seaport; or a statutorily created expressway, bridge, and transportation authority. Past and future owners are not relieved of pollution contamination liability, and the transportation entity is still liable for its actions which create or exacerbate a pollution source. The bill provides spaceport facilities with the same limitation on pollution liability as currently provided to other transportation entities.

**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, 331.305, 331.308, 331.329, 331.331, 331.360, 332.001, 332.004, 332.006, 332.007, 334.03, 334.27, 339.155, and 339.175, F.S. are amended; and section 332.009, F.S., is created by the bill.

**E. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Gives the bill the short title of the "Florida Space Transportation Planning Act."

**Section 2.** Exempts spaceports licensed by the Federal Aviation Administration (FAA) from state airport site approval and licensing requirements.

**Section 3.** Corrects obsolete references to various entities involved in SFA projects.

**Section 4.** Expands the boundaries of spaceport territory under the jurisdiction of the SFA.

**Section 5.** Deletes obsolete language; deletes a restriction on the SFA's authority to undertake certain utility-related projects; and deletes a provision which limits the SFA's eminent domain authority to area within its jurisdiction.

**Section 6.** Makes clarifying changes, deletes obsolete language related to initial membership of the SFA board of supervisors, and makes legislative appointees of the board voting members.

**Section 7.** Deletes a limitation on the SFA's authority to furnish electrical power in annexed areas.

**Section 8.** Deletes obsolete language related to bonding authority of the SFA.

**Section 9.** Directs the SFA to develop a spaceport master plan of recommended projects, requires the master plan to be submitted to MPO's; and requires DOT to include the plan's projects in its 5-year work program.

**Section 10.** Directs DOT to promote and develop aerospace transportation facilities.

**Section 11.** Amends numerous aviation definitional provisions to include references to aerospace, space flight and space transportation projects.

**Sections 12 - 13.** Amends various DOT aviation program provisions to include references to aerospace, space flight and space transportation projects; requires DOT's annual legislative budget request to be based on funding required for the space projects in DOT's work program.

**Section 14.** Creates 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.

**Section 15.** Changes the definition of "transportation facility to include any means of transporting people or goods, rather than people and goods.

**Sections 16 - 17.** Modifies the laws related to the transportation planning functions of DOT and of Metropolitan Planning Organizations to include references to spaceport facilities.

**Section 18.** Provides 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. Conforms cross references.

**Section 19.** Provides spaceport facilities with the same limitation on pollution liability as currently provided to other transportation entities; conforms cross references.

**Section 20.** Provides an effective date of July 1, 1999.

### 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 to be included in the department's 5-year work program. Since the bill specifically allows for aerospace programs to be included with existing airport and aviation programs, there will 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. SFA also has requested \$900,000 for operating expenses and administration of the authority, which would support increasing staff to 16 or 17 FTE's.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

The provision of section 6 of the bill related to making the two legislative appointees to the SFA voting members may violate Florida's constitutional prohibition against dual office holding. One of these appointees is required to be a Senator and one is required to be a Representative. Article II, Section 5(a) of the Constitution of the State of Florida provides in part:

...No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.

Because the SFA is not an advisory body, the voting status of the legislative board members would appear to make these appointees hold two offices at the same time.

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.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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.



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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.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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Phillip B. Miller

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John R. Johnston