

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2112

SPONSOR: Commerce and Economic Opportunities Committee and Senator Saunders

SUBJECT: Space Industry/Aerospace Infrastructure

DATE: February 27, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bimholz	Maclure	CM	Favorable/CS
2.	_____	_____	FT	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute requires certain dealers doing business with NASA at the Kennedy Space Center or the Cape Canaveral Air Station to collect taxes from sales, admissions, leases, and licenses and remit the proceeds to the Department of Revenue for subsequent distribution to the Florida Commercial Space Financing Corporation. The tax proceeds are to be used for aerospace infrastructure funding purposes.

This committee substitute substantially amends section 212.20, Florida Statutes.

II. Present Situation:

Florida Commercial Space Financing Corporation

In 1999, the Legislature made substantial changes to statutes governing the state's involvement in promoting commercial space flight. Among other things, ch. 99-256, L.O.F., (codified at part III, ch. 331, F.S.) created the Florida Commercial Space Financing Corporation (corporation), a not-for-profit corporation established to expand employment and income opportunities for residents of this state by providing businesses domiciled in this state with information, technical assistance, and financial assistance to support space-related transactions, in order to increase the development within the state of commercial aerospace products, activities, services, and facilities (s. 331.407(1), F.S.). Specifically, s. 331.407, F.S., authorizes the corporation to:

- coordinate efforts with the United States Air Force, the National Aeronautics and Space Administration (NASA), the Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association,

- Enterprise Florida, Inc., and other public and private programs and organizations, domestic and foreign;
- establish contacts among public and private organizations in industry, both foreign and domestic, which provide information, technical assistance, and financial support to the aerospace industry;
 - compile and disseminate information on financing opportunities and techniques of financing in the aerospace industry and on sources of aerospace and space-related financing;
 - organize, host, and participate in forums regarding space-related financing;
 - insure, coinsure, lend, and guarantee loans, and to originate for sale direct space-related loans, pursuant to criteria, bylaws, policies, and procedures adopted by the board;
 - capitalize, underwrite, and secure funding for aerospace infrastructure, satellites, launch vehicles, and any service which supports aerospace launches;
 - construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and related services and activities;
 - acquire and dispose of property; and
 - make and exercise any and all contracts necessary to exercise its powers.

Section 331.409(1), F.S., allows the corporation to charge fees to help defray its operating expenses. For the six months ended June 30, 2001, the corporation had received \$21,000 of such fee-related income.¹

The corporation uses the following financial tools to serve its customers:

- *Direct Loans and Loan Guarantees.* Current law authorizes the corporation to make direct loans to and to guarantee the loans of Florida's space-related firms (s. 331.407(2)(e), F.S.).² However, neither a direct loan nor a loan guarantee can exceed 90 percent of the cost of a transaction (s. 331.409(3), F.S.).

The total amount of loans, loan guarantees, and other instruments cannot be more than five times the balance of the corporation's account (s. 331.409(2), F.S.). As of February 15, 2001, the account balance was \$1,650,000.³ Of that balance, \$1 million was appropriated by the Legislature in 1999 for the purpose of implementing the provisions of part III, ch. 331, F.S, relating to the corporation (s. 24, ch. 99-256, L.O.F.). The remainder was appropriated by the Legislature in 2001 for the sole purpose of funding

¹ Florida Commercial Space Financing Corporation, *Financial Statements, Six months ended June 30, 2001 with Independent Auditors' Report*, July 25, 2001, p. 3.

² The corporation partners with Florida's banking community to provide such guarantees, which are subject to the approval of the corporation's board of directors. See Florida Commercial Space Financing Corporation, *2001 Annual Report*, p. 6.

³ Source: Information provided by corporation staff to staff of the Senate Committee on Commerce and Economic Opportunities, February 18, 2002.

aerospace infrastructure, which is defined as:

land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses directly related to such land, buildings, improvements, fixtures, machinery, equipment, instruments, or software.⁴

Based on this account balance, the corporation is statutorily authorized to complete transactions valued at \$8,250,000, in total. Although, the corporation has issued no direct loans, it has:

- Guaranteed a \$3.95 million loan for Aviation Technical Services: The loan will be used for the creation of an aviation-component maintenance operations center at Orlando International Airport. The project is expected to bring more than 125 new jobs to the state in its first year of operation.
- Approved a \$2.3 million loan guarantee for Lake Aerospace: Contingent upon Lake Aerospace's resolution of pending litigation, the loan would be used to finance a buyout and move aircraft-manufacturing operations from Sanford, Maine, to Vero Beach, Florida. This move would bring 50 jobs to the state immediately, with the potential for another 50 to 100 over the next few years.
- Planned to meet in February to discuss approving a \$1.7 million loan guarantee for Wrightway Aviation: Wrightway Aviation, located in Daytona Beach, provides the following services: flight school/flight training, aircraft maintenance, and aircraft sales/leasing/brokerage. The project is estimated to create at least 15 new jobs.⁵

These transactions would reduce the corporation's available loan guarantee pool to \$300,000. Furthermore, the corporation has three other pending loan-guarantee applications and is discussing the applications of more than a dozen additional firms.⁶

⁴ Section 44, ch. 2001-201, L.O.F.

⁵ Florida Commercial Space Financing Corporation, *supra* note 2, at 2, 6, and 8. *See also* information provided by corporation staff to staff of the Senate Committee on Commerce and Economic Opportunities, February 18, 2002, and AirNav.com, *Wrightway Aviation*, <http://www.airnav.com/airport/DAB/WRIGHTWAY> (last visited February 23, 2002).

⁶ The three other pending applications are for Discovery Aviation, a Titusville-based firm that provides services, including flight training, aircraft maintenance, aircraft rental, and aerial touring (\$1 million application); Agilis Group, Inc., a Palm Beach Gardens-based engineering firm specializing in engine design and development (\$40 million application); and PrivateSky Aviation, a Fort Meyers-based firm that would use its loan to expand its servicing of private regional jets at Southwest Florida International Airport (\$5 million application). *See* Florida Commercial Space Financing Corporation, *supra* note 2, at 3, 8, and 9; information provided by corporation staff to staff of the Senate Committee on Commerce and

- *Loan Facilitations.* The corporation's financial professionals design programs to help the aerospace industry finance a variety of projects, including infrastructure, manufacturing, assembly, and launch-investment.⁷ The corporation provides clients with support and assistance through the entire loan process. The corporation helped AstroTech Space Operations obtain a \$20 million loan to finance the expansion of its payload processing facility in Titusville and is currently assisting several other companies with their financing needs, including Miraxis Technologies, Inc., which the corporation convinced to launch its satellite from Florida rather than overseas.⁸
- *Export Loans.* Many client projects, such as launch satellites, are federally classified as exports.⁹ As a result, the corporation has a memorandum of understanding with the Florida Export Finance Corporation (FEFC).¹⁰ The FEFC has become an active part of the corporation's financing team, and the many services of the FEFC are also available to the corporation's clients. In addition, the corporation has a strong working relationship with the Export-Import Bank of the United States to provide loan guarantees and direct loans for the export of U.S.-manufactured vehicles and satellites.
- *Synthetic Leases and Lease Backs.* A synthetic lease is an instrument that gives a lessee of mortgaged property certain benefits of ownership, such as depreciation for income tax purposes, while allowing the company to keep the property off its financial statements.¹¹ The corporation is currently helping Boeing arrange a synthetic lease relating to new Delta IV launch infrastructure valued at approximately \$400 million.¹² A lease back allows an individual or company to sell property and then lease the same property from the new owner.¹³ The corporation is working with Lockheed Martin to bring two new flight simulators to the state (valued at approximately \$40 million) via such an arrangement.¹⁴

Economic Opportunities, February 18, 2002; AirNav.com, *Discovery Aviation Services*, <http://www.airnav.com/airport/TIX/DISCOVERY> (last visited February 23, 2002); Agilis, *Welcome to Agilis*, <http://www.agilis.com> (last visited February 23, 2002); and AirNav.com, *PrivateSky Aviation Services, Inc.*, <http://www.airnav.com/airport/RSW/PRIVATESKY> (last visited February 23, 2002).

⁷ Florida Commercial Space Financing Corporation, *supra* note 2, at 6.

⁸ Florida Commercial Space Financing Corporation, *supra* note 2, at 2 and 8.

⁹ Florida Commercial Space Financing Corporation, *supra* note 2, at 7.

¹⁰ The Florida Export Finance Corporation helps Florida companies increase their exports by providing them with informational, technical, and financial assistance (typically loan guarantees). *See* ss. 288.770-288.778, F.S.

¹¹ Office of Program Policy Analysis and Government Accountability, *Space Financing Corporation Is Still Gearing Up and Needs to Develop a Business Plan*, Report No. 01-11, February 2001, pp. 2-3.

¹² Florida Commercial Space Financing Corporation, *supra* note 2, at 2 and 9.

¹³ Office of Program Policy Analysis and Government Accountability, *supra* note 11, at 3.

¹⁴ Florida Commercial Space Financing Corporation, *supra* note 2, at 3 and 9.

The corporation's governing board consists of seven voting members and two non-voting members (s. 331.411, F.S.). Voting members include a representative appointed by each of the following entities: the board of supervisors of Spaceport Florida; the board of directors of the Florida Export Finance Corporation; the director of the Office of Tourism, Trade, and Economic Development; the board of directors of Enterprise Florida, Inc.; and the Secretary of the Department of Transportation. The Governor appoints two additional voting members. Non-voting members include a member of the Senate selected by the President of the Senate and a member of the House of Representatives selected by the Speaker of the House of Representatives.

Tax on Sales, Use, and Other Transactions

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions.

- Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the cost price of any item of tangible personal property that is not sold but used in Florida.
- Section 212.04(1)(a), F.S., provides that every person is exercising a taxable privilege who sells or receives anything of value by way of admissions. Section 212.04(1)(b), F.S., levies a 6 percent tax of sales price or the actual value received from admissions.
- Section 212.031(1)(a), F.S., states that every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a license for the use of any real property. Section 212.031(1)(c), F.S., imposes a tax rate of 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each, with a maximum of 1.5 percent. Pursuant to ss. 212.054 and 212.055, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax.

Presently, dealers conducting business at the Kennedy Space Center and/or at the Cape Canaveral Air Station collect and remit to the Department of Revenue sales tax on the sale of tangible personal property and admissions and on the leasing or licensing of real property. Sales tax collected by such dealers is presently credited to the General Revenue Fund and the Discretionary Sales Surtax Clearing Trust Fund, pursuant to s. 212.20, F.S.

III. Effect of Proposed Changes:

This committee substitute requires certain dealers doing business with NASA at the Kennedy Space Center or the Cape Canaveral Air Station to collect taxes from sales, admissions, leases, and licenses and remit the proceeds to the Department of Revenue for subsequent distribution to the Florida Commercial Space Financing Corporation. The tax proceeds are to be used for aerospace infrastructure funding purposes. The following is a section-by-section analysis of this committee substitute.

Section 1. This section provides that this act may be cited as the “Aerospace Infrastructure Reinvestment Act.”

Section 2. This section sets forth a statement of legislative intent providing that promotion of growth of the space industry in Florida is a vital part of the state’s overall economic plan and that facilitating additions to aerospace infrastructure will make the state more competitive and promote the retention and growth of space business in the state. The statement further calls for the reinvestment of certain sales tax receipts, generated by the presence of the space industry in the state, as a means of providing for that infrastructure growth.

Section 3. This section adds sub-subparagraph 212.20(6)(d)7.e., F.S., to provide that every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to those facilities pursuant to a contract or sub-contract with NASA must file a return each month to the Department of Revenue (department). The return must segregate information regarding taxes collected on sales, admissions, leases, and licenses at the facilities. This section also requires dealers to remit all amounts due under ch. 212, F.S., with respect to such transactions to the department in a timely manner and file copies of their returns with the Florida Commercial Space Financing Corporation (corporation) and the director of the Office of Tourism, Trade, and Economic Development (OTTED). These returns and information therein shall be subject to the same confidentiality provisions as are applicable to returns and information filed with the department pursuant to s. 213.053, F.S.¹⁵

This section also directs the department to distribute to the corporation, on a monthly basis, the proceeds collected and remitted to the department according to the returns. The first \$1.5 million of such distributions must be expended for “aerospace infrastructure” used in or pertaining directly to human space flight, including space shuttle orbital maintenance, modifications, and related activities. The remainder of the distributions must be used solely for “aerospace infrastructure.” This section defines the term “aerospace infrastructure” to mean:

land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state’s capability to ensure security, or to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or

¹⁵ Section 213.053, F.S., sets forth confidentiality and information sharing requirements for the Department of Revenue with regard to tax administration matters, including payment information related to ch. 212, F.S.

components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses, including, but not limited to, utility location, relocation, and realignment directly related to such land, buildings, improvements, fixtures, machinery, equipment, instruments, or software.

This section also:

- provides that s. 212.20(6)(d)7.e., F.S., shall not be construed as affecting any dealer's liability for other taxes imposed by and due under ch. 212, F.S.;
- provides that, in the event the department collects any additional amounts under this chapter with respect to any transactions for which a separate return is required by this new sub-subparagraph, the proceeds shall, within 30 days following collection, be distributed equally by the department to the corporation for uses authorized by s. 212.20(6)(d)7.e., F.S.;
- amends s. 212.20(6)(b), F.S., to clarify that the proceeds distributed should include the proceeds from discretionary sales surtaxes generated by applicable dealers; and
- provides that this new sub-subparagraph expires July 1, 2007.

Section 4. This section provides the department with necessary rulemaking authority.

Section 5. This section provides that this act shall take effect July 1, 2002, and be applicable to taxes due on or after that date. Just as section 3 of this committee substitute provides that s. 212.20(6)(d)7.e., F.S., shall expire July 1, 2007, this section provides that sections 1, 2, and 4 of this act shall expire July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the fiscal impact of this committee substitute to be a FY 2002-03 General Revenue loss of \$2.7 million with an annualized

first-year loss of \$2.7 million and a FY 2002-03 local government loss of \$400,000 with an annualized first-year loss of \$400,000.

Issue/Fund	<u>Fiscal Year 2002-2003</u>							
	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Spaceport Infrastructure	\$ (2.7)	\$ (2.7)	*	*	\$ (0.4)	\$ (0.4)	\$ (3.1)	\$ (3.1)

* Insignificant (less than \$50,000)

B. Private Sector Impact:

More funds will be available for aerospace infrastructure projects. However, every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to those facilities pursuant to a contract or sub-contract with NASA will have to file monthly returns with the Department of Revenue, the Florida Commercial Space Financing Corporation, and the director of the Office of Tourism, Trade, and Economic Development.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
