

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1701 PCB SPT 05-02 Florida Aerospace Infrastructure Act
SPONSOR(S): Spaceport & Technology Committee
TIED BILLS: HB 1703 **IDEN./SIM. BILLS:** SB 2208, SB 1938

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Spaceport & Technology Committee	6 Y, 0 N	Cheek	Saliba
1) Transportation & Economic Development Appropriations Committee			
2) State Infrastructure Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Florida Aerospace Finance Corporation (FAFC) was established in 1999 as a not-for-profit corporation, under Chapter 331, F.S., and was designed to serve as the finance arm of the State of Florida to assist in the recruitment, development, and expansion of the aerospace industry in Florida. The FAFC contracts with the Office of Tourism, Trade, and Economic Development (OTTED). For the July 1, 2004 through June 30, 2005 contract period, the FAFC received \$300,000 for program implementation of its duties and responsibilities.

HB 1701 creates the Aerospace Infrastructure Act of 2005 (Act). This bill allows the FAFC to fund aerospace infrastructure projects from sales and admissions tax proceeds generated at the John F. Kennedy Space Center and the Cape Canaveral Air Force Station. Specifically, the bill requires dealers doing business under contract with NASA at the John F. Kennedy Space Center or the Cape Canaveral Air Force Station to collect taxes from sales and admissions and remit the taxes to the Department of Revenue for subsequent distribution to the FAFC.

No current estimates as to the fiscal impact of this bill are available. However, figures developed by the Revenue Estimating Conference for FY 2002-03 for similar legislation filed during the 2003 Legislative Session (HB 1617) estimate a redistribution of \$4.1 million in state and local revenues annually. This estimate includes an annual reduction of \$3.4 million from the General Revenue Fund and \$700,000 from local government revenues due to the redirecting of these revenues.

In addition to creating the Aerospace Infrastructure Act, the bill creates s. 196.1999, F.S., reestablishing the space laboratories and carriers ad valorem tax exemption which was contain in s. 196.1994, F.S., and expired on July 1, 2004. The Revenue Estimating Conference has not yet developed an estimated fiscal impact associated with the space laboratories and carriers ad valorem tax exemption.

The bill provides a July 1, 2005 effective date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-

- HB 1703 creates the Florida Aerospace Infrastructure Investment Trust Fund (trust fund) within the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor. The purpose of the trust fund is to provide capital assistance under the Florida Aerospace Infrastructure Program created in HB 1701. The administrator of the trust fund is OTTED.

Ensure Lower Taxes-

- HB 1701 creates s. 196.1999, F.S., by reestablishing the space laboratories and carriers tax exemption which was contain in s. 196.1994, F.S., and expired on July 1, 2004.

B. EFFECT OF PROPOSED CHANGES:

Current Situation & Background

Florida Aerospace Finance Corporation (FAFC)

(Formally known as The Florida Commercial Space Financing Corporation (FCSFC))

Florida Commercial Space Financing Corporation (FCSFC)

In 1999, the Legislature made substantial changes to statutes governing the state's involvement in promoting commercial space flight. Among other things, Chapter 99-256, Laws of Florida, (codified at Part III, chapter 331, F.S.) created the Florida Commercial Space Financing Corporation, a not-for-profit corporation established to ensure the continued development of a viable commercial space industry in the state and an expanded technical and scientific job base for Floridians.

The 1999 legislation that created the FCSFC also appropriated \$1.5 million in initial funding for the corporation and contracted through OTTED. Of that \$1.5 million, \$1 million was for capital investment and \$500,000 was for operational costs. In fiscal years 2000-2001, 2001-2002, and 2002-2003, the General Appropriations Act appropriated \$300,000 for the corporation, however, in fiscal year 2002-2003, the FCSFC received an additional \$650,000 for loan guarantees to finalize business projects. For fiscal year 2003-2004 the FCSFC's name was changed to the Florida Aerospace Finance Corporation (FAFC) and was appropriated \$200,000, rather than \$300,000. The appropriation was then increased by \$100,000 and FAFC received \$300,000 for fiscal year 2004-2005.

Florida Aerospace Finance Corporation (FAFC)

Chapter 2003-286, Laws of Florida, amended s. 331.401, F.S., to change the name of the corporation to the "Florida Aerospace Finance Corporation". According to representatives of the corporation, the purpose of this change was to eliminate confusion surrounding its mission and enable the corporation to service aviation-related projects. Similarly, Chapter 2003-286, Laws of Florida, amended s. 331.405, F.S., to provide a definition for the term "aerospace".

Chapter 2003-286, Laws of Florida, also amended s. 331.407, F.S., to incorporate legislative intent language providing that the corporation is not an agency for purposes of ss. 216.011, and 287.012, F.S. Section 216.011, F.S., establishes planning and budgeting provisions that are applicable to state agencies. Section 287.012, F.S., establishes procurement requirements that are applicable to state agencies. The corporation maintains that this provision is warranted in view of its status as a not-for-profit corporation. Finally, Chapter 2003-286, Laws of Florida, implemented technical and conforming changes throughout Chapter 331, F.S.

Section 331.407, F.S., authorizes the duties and the responsibilities of 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 information on financing opportunities and techniques of financing in the aerospace industry;
- Organize and participate in seminars regarding aerospace financing;
- Insure, coinsure, lend, guarantee loans, and originate for sale direct space-related loans;
- 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 property (tangible or intangible) and dispose of the same; and
- Make and exercise any and all contracts necessary to exercise its powers.

Section 311.411, F.S., establishes a board of directors for the corporation. The board is made up of 7 voting members consisting of one representative appointed by:

- The board of supervisors of Spaceport Florida Authority;
- 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 Transportation.

The Governor also appoints a representative of the investment banking industry and a lawyer in private practice to the board. The Speaker of the House and the President of the Senate each appoint a non-voting board member.

The corporation is required to submit a report on its activities each year to the Governor, the Speaker, the President of the Senate, and the minority leaders of the legislature.

For the July 1, 2004 through June 30, 2005 contract period, the FAFC received \$300,000 for program implementation of its duties and responsibilities established in chapter 331, F.S.

Chapter 212, Florida Statutes, 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 chapter 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. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 0.1 percent each, with a maximum of 1.5 percent.

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) levies a 6 percent tax of sales price, or the actual value received from admissions. Certain events, such as athletic events sponsored by schools, are exempt from the admissions tax imposed by chapter 212, F.S.

Space Laboratories and Carriers Exemption

Section 196.1994, F.S., provides an ad valorem tax exemption for space laboratories launched into space aboard any private or government-developed launch vehicle for the purpose of conducting scientific research in space or as cargo carriers launched into space for transporting or storing cargo. Section 196.1994, F.S., expired on July 1, 2004.

Effect of Proposed Changes

Space Laboratories and Carriers Exemption

HB 1701 creates s. 196.1999, F.S., by re-establishing the space laboratories and carriers exemption which was contained in s. 196.1994, F.S., and expired on July 1, 2004.

“The Florida Aerospace Infrastructure Act”

The bill creates ss. 331.501-331.507, F.S., and provides the popular name “The Florida Aerospace Infrastructure Act” (Act). The proposed bill provides legislative findings and definitions.

The bill creates the Florida Aerospace Infrastructure Program within the Florida Aerospace Finance Corporation (FAFC) to finance needed industry expansion and infrastructure projects to support the growth of the aerospace industry and related high technology industries in Florida. The corporation administers the program based upon recommendations of the Independent Investment Committee (committee) and consistent with the FAFC board’s policies and procedures.

Aerospace Infrastructure Investment Trust Fund

HB 1703 creates the Florida Aerospace Infrastructure Investment Trust Fund (trust fund) within the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor. The purpose of the trust fund is to provide capital assistance under the Florida Aerospace Infrastructure Program created in HB 1701. The administrator of the trust fund is OTTED.

The trust fund is to be funded from all sales tax on tangible personal property, admissions, and leasing or licensing of real property generated by dealers conducting business at the Kennedy Space Center and the Cape Canaveral Air Force Station. Unless terminated sooner, the trust fund will terminate July 1, 2009. Prior to its termination, the trust fund shall be reviewed as provided in s. 215.3206, F.S.

The bill takes effect on July 1, 2005, contingent upon passage and enactment of HB 1701 or similar legislation. HB 1703 must be enacted by a three-fifths vote of the membership of each House.

The Florida Aerospace Finance Corporation (FAFC)

The bill authorizes FAFC to provide direct loans, loan guarantees, direct grants for advancement of intellectual property, and other investment participation as necessary to ensure success of total financings undertaken by the fund. Proceeds from the grant of funds from OTTED cannot be used for operating expenses, but only for the development of aerospace infrastructure, technology, and intellectual property that advances the capabilities of the aerospace industry in Florida.

FAFC is to seek co-investors to ensure that the corporation is not the sole investor in the transaction. FAFC is not to commit to more than 20% of the funds in the investment pool to any single investment or leverage the investment pool through use of loan guarantee capabilities of the Small Business Administration and other state and federal sources. Further, FAFC is to provide payment of reasonable costs of investment and fund administration and not pledge the full faith and credit of the state of Florida. Finally, FAFC is to adopt policies and procedure to carry out the responsibilities of this Act and develop an application and review process for investment proposals submitted for consideration by the committee.

Independent Investment Committee

The Independent Investment Committee (committee) is created within the FAFC for the purpose of receiving proposals from any of Florida's space partnerships, entities involved in economic development, or space-based aerospace corporations to finance projects through the program. The committee is to also recommend criteria for investment proposals to be submitted to the committee and recommend evaluation criteria for the committee as well as review and recommend investments to be made by the corporation. The committee consists of five voting members designated from the following:

- The board of supervisors of the Florida Space Authority;
- The board of directors of Enterprise Florida, Inc.;
- The board of directors of the Florida Aerospace Finance Corporation; and
- Two representatives of the aerospace industry appointed by the other three entities represented on the committee.

Each voting member is to serve a 3-year term, and, except for the initial terms which are to begin upon appointment and terminate on June 30, 2008, will begin on July 1. Members appointed by the board of supervisors of the Florida Space Authority; the board of directors of Enterprise Florida, Inc; and the board of directors of the Florida Aerospace Finance Corporation are to serve at the pleasure of the appointing authority. Members of the aerospace industry appointed by the other three entities represented on the committee are to serve at the pleasure of the Governor. Initial appointments shall be made no later than 60 days after the effective date of the Act. Persons appointed, if employed full time by any entity that applies for financial support, must recuse themselves from voting on any related project.

In addition, all members must be residents of the state; have an investment, banking, or aerospace industry background; shall serve without compensation but may be reimbursed for travel and per diem expenses for all necessary expenses in the performance of their duties, including attending board meetings and conducting board business. The committee has the following responsibilities:

- To review and recommend investments in projects proposed by state space partnerships, economic development organizations, and private sector entities which have a clear economic benefit to the state and which support growth of its aerospace industry employment and technology base as well as enhancing aerospace infrastructure projects in Florida.
- To review progress information reports resulting from projects approved for support by the corporation.

- To recommend and assist the corporation to review, draft, and execute any and all contracts or other instruments necessary for the corporation to exercise its powers.
- To recommend policies and procedures with respect to setting criteria for investment proposals to be submitted to the fund, evaluation criteria for the fund, monitoring requirements, and investment and approval guidelines for all investments to be made through the program.
- To ensure that each proposed project is judged on the merit of the project, its perceived need, and the investment return, benefit or overall value to the overall aerospace industry capability in Florida.
- To assess, as part of their recommendation process, whether investment returns or value and capital preservation objectives exist for each investment recommended.
- To review whether appropriate investment and retention of the program's capital base or other benefits are realized through the investments of the program, except in the case of a grant or equity investment, which shall be made based on value received by the program.

Tax Exempt Status

HB 1701 grants the FAFC tax-exempt status. The bill provides that the corporation is not required to pay taxes on any project or other property owned by the corporation or upon any resulting income. All notes, mortgages, security agreements, letters of credit or other instruments that arise out of, or are given to secure the payment of debt issued in conjunction with a project financed under the corporation's authority is also free from taxation by Florida, or any other local unit, political subdivision, or instrumentality of Florida. The tax exemption is not applicable to taxes imposed on interest, income or profits on debt obligations owned by the corporation.

Reports and Audits

HB 1701 provides that by December 31 of each year, the corporation is to submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report setting forth: (1) an evaluation of its activities and recommendations for change; (2) the program's impact on the participation of private banks and other private organizations and individuals in the corporation's financing programs, and other economic and social benefits to businesses in this state; and (3) the program's assets and liabilities at the end of its most recent fiscal year.

The bill provides for a July 1, 2005 effective date.

C. SECTION DIRECTORY:

Section 1: Creates s. 196.1999, F.S., – *Space Laboratories and carriers exemption.*

Section 2: Creates ss. 331.501-331.508, F.S., – *The Florida Aerospace Infrastructure Act.*

Section 3: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida Aerospace Infrastructure Act.

No current estimates as to the fiscal impact of this proposed committee bill are available. However, figures developed by the Revenue Estimating Conference for FY 2002-03 for similar legislation during the 2003 Legislative Session (HB 1617) estimate a redistribution of state and local revenues by \$4.1 million annually. This estimate includes an annual reduction of \$3.4 million from the General Revenue Fund and an annual reduction of \$700,000 from local government revenues due to the redirecting of these revenues.

FAFC Tax Exempt Status

The FAFC is currently a 501(c)3. corporation and has tax exempt status. The bill would provide an ad valorem tax exemption if the FAFC purchased a building and leased it to a corporation. The FAFC currently does not have such an arrangement, therefore, the fiscal impact is zero. However, if the corporation has such a tax exemption, the fiscal impact of the tax exemption would be dependent on the ad valorem taxes associated with that particular building.

Space Laboratories and Carriers Exemption.

The Revenue Estimating Conference has not developed an estimated fiscal impact associated with the space laboratories and carriers exemption. Current information is not available for the exemption pursuant to s. 196.1994, F.S.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Florida Aerospace Infrastructure Act.

No current estimates as to the fiscal impact of this bill are available. However, figures developed by the Revenue Estimating Conference for FY 2002-03 for similar legislation during the 2003 Legislative Session (HB 1617) estimate a redistribution of state and local revenues by \$4.1 million annually. This estimate includes an annual reduction of \$3.4 million from the General Revenue Fund and an annual reduction of \$700,000 from local government revenues due to the redirecting of these revenues.

Space Laboratories and Carriers Exemption

There may be a reduction in local revenues due to certain space laboratories and carriers benefiting from an ad valorem tax exemption. However, the Revenue Estimating Conference has not developed an estimated fiscal impact associated with the space laboratories and carriers exemption.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The commercial space flight industry may benefit from increased public financial support made possible by earmarking sales tax proceeds for aerospace infrastructure projects and certain space laboratories and carriers may benefit from an ad valorem tax exemption.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 196.1994, F.S., relating to space laboratories and carriers exemption expired on July 1, 2004 and is to be repealed in the reviser's bill (HB 1215) during the 2005 Legislative Session.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.