



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

##### **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 (Formally known as The Florida Commercial Space Financing Corporation)**

##### 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, 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. 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 FCSFC; 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. The FAFC received \$300,000 for fiscal year 2004-2005.

##### Florida Aerospace Finance Corporation (FAFC)

In 2003, s. 331.401, F.S., was amended 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.

Section 331.407, F.S., provides the duties and the responsibilities of the FAFC are 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 331.411, F.S., establishes a board of directors for the FAFC. 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 of the House, the President of the Senate, and the minority leaders of the legislature.

### **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 bill provides the ad valorem tax exemption for space laboratories and space cargo carriers will apply retroactively to January 1, 2005.

#### **“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 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 FEFC administers the program based upon recommendations of the Independent Investment Committee and consistent with the FAFC board's policies and procedures.

#### The Florida Aerospace Finance Corporation

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 advance 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 percent 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 must recommend criteria for investment proposals and recommend evaluation criteria, as well as review and recommend investments to be made by the FAFC. 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 three-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 will 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; will 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 FAFC.
- To recommend and assist the FAFC 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 will 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 FAFC 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 FAFC 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 Institute for Advanced Space Computing Act

HB 1701 creates the Institute for Advanced Space Computing Program (program), within OTTED, to:

- Identify and pursue opportunities for universities and private businesses to form collaborative partnerships to promote commercially viable technologies.
- Acquire and leverage public and private sector funding.
- Retain and recruit world class scholars and scientists.
- Enhance and expand technology curricula and university resources.
- Increase the number of high-performing students graduating from Florida's universities.
- Stimulate and support growth of technology based businesses
- Position Florida to compete in the national space and defense market.

The bill provides OTTED must contract with the Florida Space Research Institute to assist in implementing the program. The bill defines an Institute for Advanced Space Computing (institute) as an organization established at, or in collaboration with, one or more universities in Florida to accomplish the objectives of the program.

By December 31, 2005, the Florida Space research Institute must designate an institute for advanced space computing and develop and approve the institute's plan for allocating any state funding.

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 impact of the tax exempt status has not been reviewed by the Revenue Estimating Conference.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On April 1, 2005, the Revenue Estimating Conference estimated that the property tax exemption created in this bill would have a negative fiscal impact of \$0.1 million on local governments in 2005-2006.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of the space laboratories and cargo carriers will benefit to the extent that their property is not subject to ad valorem taxation.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each

house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

By exempting these space laboratories and cargo carriers from ad valorem taxes, the bill reduces the municipalities' and counties' ad valorem tax base, thereby reducing their revenue-raising authority.

On April 1, 2005, the Revenue Estimating Conference estimated that the property tax exemption created in this bill would have a negative fiscal impact of \$0.1 million in 2005-2006 on state and local governments. Due to its insignificant fiscal, the bill is exempt from the constitutional restriction.

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**

On April 15, 2005, the Transportation and Economic Development Committee adopted three amendments. The amendments:

- Provide the ad valorem tax exemption for space laboratories and space cargo carriers will apply retroactively to January 1, 2005, and remove the exemption for launch vehicles carrying passengers.
- Creates the Institute for Advanced Space Computing within the Office of Tourism, Trade, and Economic Development.
- Provide a severability clause.