

# 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.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/SB 1732

SPONSOR: Commerce and Consumer Services and Senator Saunders

SUBJECT: Aerospace Ad Valorem Taxes

DATE: April 22, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<b>Favorable</b>
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute creates s. 196.1999, F.S., to exempt from ad valorem taxation storage components used to transport or store cargo used for a space laboratory, which is used for scientific purposes.

This committee substitute creates section 196.1999 of the Florida Statutes and repeals section 196.1994 of the Florida Statutes.

## II. Present Situation:

### Property Taxation in Florida

Ad valorem tax or “property tax” is a major source of revenue for local governments in Florida. In FY 2001-02 (the last year for which fiscal information is available) property taxes constituted 30 percent of county governmental revenue (\$5.7 billion),<sup>1</sup> and 24 percent of municipal governmental revenue (\$2.1 billion), making it by far the largest single source of tax or general revenue for general purpose governments in Florida. In addition, the property tax is the primary local revenue source for School Districts. In FY 2000-01, school districts levied \$7.6 billion in property taxes for K-12 education.<sup>2</sup>

The property tax is important not only because of the revenue it generates, but because it is the only taxing authority not preempted by the Florida Constitution to the state.<sup>3</sup> However, the

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<sup>1</sup> Information provided by the Legislative Committee on Governmental Relations (LCIR), from the LCIR database at <http://fcn.state.fl.us/lcir/cntyfiscal/corevprofsw.xls>.

<sup>2</sup> See 2004 FLORIDA TAX HANDBOOK, p. 137. The state and federal governments contributed approximately \$9 billion in the same year.

<sup>3</sup> See Art. VII, s. 1, Fla. Const.

property tax is not an unlimited source of revenue. The Florida Constitution caps the millage rates assessed against the value of the property.<sup>4</sup> In addition, the Florida Constitution grants property tax relief in the form of valuation differentials,<sup>5</sup> assessment limitations,<sup>6</sup> and exemptions,<sup>7</sup> including homestead exemptions.<sup>8</sup>

In addition, the courts have ruled that property of the federal government, the state, and the counties is immune from, or not subject to, taxation.<sup>9</sup> The courts have further ruled that this immunity extends to property of school districts<sup>10</sup> and certain special districts.<sup>11</sup>

In tax year 2002, the combination of these forms of property tax relief effectively reduced the taxable value of property in this state by 28 percent.<sup>12</sup> Any additional reduction in the property tax base will result in a corresponding shift in property tax burden to other property tax owners.<sup>13</sup>

### **Overview of Florida's Space Industry**

Since its establishment 50 years ago, the space industry has developed a statewide presence, with half of the space-related businesses located outside of Brevard County. While launch operations remain the state's primary space-related activity, the industry has expanded to include additional capabilities and services. The space industry has also contributed significantly to the growth of Florida's research, technology development, and tourism sectors.

Florida currently ranks 4th among states in aerospace employment. The majority of aerospace employees are highly trained engineers, scientists, and technicians that command relatively high salaries. According to the Florida Aviation Aerospace Alliance the annual average wage of aerospace workers is approximately \$52,000.<sup>14</sup> More than 86 percent of the 15,000 Kennedy Space Center (KSC) based employees work for prime contractors or their sub-contractors. The remainder are generally federal civil service workers employed directly by NASA. Based on NASA's 2003 estimate of its economic impact in Florida, each direct job at KSC created 2.4 indirect jobs, and each dollar of income created \$1.81 of total income.<sup>15</sup>

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<sup>4</sup> See Art. VII, s. 9 of the Florida Constitution.

<sup>5</sup> Article VII, s. 4 of the Florida Constitution.

<sup>6</sup> Article VII, s. 4(c) of the Florida Constitution.

<sup>7</sup> Article VII, s. 3 of the Florida Constitution, provides authority for the property tax exemptions, to include property used predominantly for educational, literary, scientific, religious or charitable purposes, as provided in general law.

<sup>8</sup> Article VII, s. 6 of the Florida Constitution.

<sup>9</sup> See *Park-N-Shop, Inc. v. Sparkman*, 99 So. 2d 571 (Fla. 1957); *Orlando Utils. Comm'n v. Milligan*, 229 So. 2d 262 (Fla. 4th DCA 1969); and *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>10</sup> See *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>11</sup> See *Sarasota-Manatee Airport Auth. v. Mikos*, 605 So. 2d 132 (Fla. 2d DCA 1992). Cf. *Canaveral Port Auth. V. Department of Revenue*, 690 So. 2d 1226 (Fla. 1996).

<sup>12</sup> Out of \$1,236 billion in just (or market) value, \$347 billion was not taxed. See LCIR database at <http://fcn.state.fl.us/lcir/dataAto?Z.html>.

<sup>13</sup> Generally, local governments respond to reductions in the property tax base in one of three ways: decrease their budgets, replace the lost revenue with other sources of revenue, or increase the millage rate on the remaining taxable property.

<sup>14</sup> The Florida Aviation Aerospace Alliance, *2003 Aviation/Aerospace Assessment*, October 2003.

<sup>15</sup> W. Warren McHone, Transportation Economics Research Institute, *The Economic Impact of NASA in Florida – 2003*, March 2004.

The primary space industry segment within Florida remains launch operations. These include products and services related to payload support and processing, spaceport operations, and ground operations equipment and support. Within the spaceport, most activities revolve around three major programs: the Space Shuttle; the International Space Station; and expendable launch vehicles. The Space Shuttle Program, which is managed by United Space Alliance (a joint venture between Boeing Company and Lockheed Martin Corporation), constitutes the largest expenditure and employment category at KSC. Almost 10,000 employees currently work on the Space Shuttle Program.

Efforts to diversify Florida's space industry beyond launch-related operations have achieved some results. The recently completed Space Life Sciences Laboratory (previously known as the Space Experiment Research and Processing Laboratory or SERPL) serves as the primary gateway to the International Space Station for science experiments and a home to ground-based investigations in biological science. This facility will anchor the 400-acre International Space Research Park at KSC. This research park is intended to serve as a magnet for new space research and technology development initiatives.

### **Tax Exemptions for Space-Related Enterprises**

Section 212.08, F.S., provides a sales tax exemption for certain equipment and machinery used to expand the productive output of a spaceport activity. Similarly, s. 212.031, F.S., provides that leases of real property used for space flight business are exempt from Florida sales tax.

Until its repeal in 2004, s. 196.1994, F.S., provided for an ad valorem tax exemption for certain space laboratories and cargo carriers, which were "deemed to carry out a scientific purpose." The exemption provided that:

"Notwithstanding other provisions of this chapter, modules, pallets, racks, lockers, and their necessary associated hardware and subsystems owned by any person and intended for use as space laboratories launched into space aboard the space shuttle for the primary purpose of conducting scientific research in space or as cargo carriers launched into space aboard the space shuttle for the primary purpose of transporting or storing cargo are deemed to carry out a scientific purpose and are exempt from ad valorem taxation."

It appears that the constitutional basis for this exemption is found in Article VII, s. (3)(a), of the State Constitution, which provides that "...such portions of property as are used predominantly for ...scientific...purposes may be exempted by general law from taxation."

### **Ad Valorem Exemptions: Scientific Purposes**

Chapter 196, F.S., currently requires property to meet three criteria to qualify for a scientific ad valorem tax exemption. First, the property must be "owned and used" by the exempt entity for a scientific purpose.<sup>16</sup> An exempt entity is an entity that owns property that is put to an exempt use.

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<sup>16</sup> Section 196.192(2), F.S. The State Constitution does not require ownership as a condition for the exemption.

Second, the property must exclusively or predominantly be used for a scientific purpose.<sup>17</sup> “Predominant use of property” is defined as the use of property for exempt purposes in excess of 50 percent but less than exclusive, which is 100 percent.<sup>18</sup> The courts have clarified that unless the entire property “is used at least predominantly for an exempt use, no portion of it qualifies for an exemption.”<sup>19</sup> After the property meets the “predominant use” test, the exemption is restricted to “only those portions of property used predominantly for charitable” purposes. Third, the property cannot be “used for profit-making purposes.”<sup>20</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 196.1999, F.S., to exempt from ad valorem taxation storage components used to transport or store cargo used for a space laboratory, which is used for scientific purposes. This exemption is similar to the exemption in s. 196.1994, which expired in 2004.

Specifically, the committee substitute provides that:

“Notwithstanding any other provisions of this chapter, a module, pallet, rack, locker, and any necessary associated hardware and subsystem, owned by any person and intended to be used to transport or store cargo used for a space laboratory for the primary purpose of conducting scientific research in space, is deemed to carry out a scientific purpose and is exempt from ad valorem taxation.”

**Section 2** of this committee substitute repeals s. 196.1994, F.S., the expired exemption that this committee substitute replaces.

**Section 3** provides that this act shall take effect July 1, 2005, and that it shall apply retroactively to January 1, 2005.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

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 committee substitute reduces the municipalities’ and counties’ ad valorem tax base, thereby reducing their revenue-raising authority.

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<sup>17</sup> Section 196.192(2), F.S., consistent with the “predominant use” requirement in Art. VII, s. 3(a) of the State Constitution.

<sup>18</sup> Section 196.012, F.S.

<sup>19</sup> *North Shore Medical Center, Inc. v. Bystrom*, 461 So.2d 167 (Fla. App. 3 Dist. 1984).

<sup>20</sup> Section 196.196(3), F.S.

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

**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 has estimated that the property tax exemption created in this committee substitute would have a negative fiscal impact of \$0.1 million in 2005-2006 on local governments.

**B. Private Sector Impact:**

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

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

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

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