

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1489 W/ CS State's Aerospace Industry
SPONSOR(S): Waters and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2580

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Spaceport & Technology Committee</u>	<u>6 Y, 1 N, w/CS</u>	<u>Whittier</u>	<u>Saliba</u>
2) <u>Fiscal Council</u>	<u>23 Y, 0 N, w/CS</u>	<u>Gordon</u>	<u>Kelly</u>
3) <u>State Infrastructure Council</u>	<u></u>	<u>Whittier</u>	<u>Havlicak</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120. The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics and to maximize the economic development and job creation opportunities throughout the state." The commission released their final report in January 2006 with 18 recommendations to improve the future of the aerospace industry in Florida. HB 1489 w/CS contains some of these recommendations.

The bill repeals the Florida Space Research Institute (FSRI) and the Florida Aerospace Finance Corporation (FAFC), as well as their boards. The Florida Space Authority (FSA) is designated as Space Florida. Several responsibilities of the FSRI and FAFC are retained as those of Space Florida and others are eliminated and many existing FSA powers and duties are revised. The bill repeals the Spaceport Management Council.

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state. Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development and education programs. It is also directed to coordinate with appropriate federal, state, and local entities, and other interested parties. It directs Space Florida to create a marketing campaign.

Space Florida is directed to do the following: 1) Seek federal support to upgrade the infrastructure and technologies at current state and federal launch sites; 2) Promote and facilitate launch activity by assisting commercial launch operators with completing documentation and authorization requirements from federal agencies; and 3) Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

The bill directs the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a state university and instructs Space Florida to collaborate with universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to develop commercially promising, advanced, and innovative science and technology and transfer those discoveries to the commercial sector.

The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25 percent to a full exemption. This is estimated to have an annualized negative impact of \$2.8 million on the state General Revenue Fund in 2006. The bill appropriates \$43 million nonrecurring from the General Revenue Fund and \$7 million recurring from the General Revenue Fund.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill redesignates the Florida Space Authority as Space Florida and repeals the other two statutory space entities, as well as their boards: Florida Space Research Institute and the Florida Aerospace Finance Corporation. Some responsibilities of the latter two entities are retained as those of Space Florida and others are eliminated.

Ensure Lower Taxes: The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25 percent to a full exemption.

B. EFFECT OF PROPOSED CHANGES:

Background

Governor's Commission on the Future of Space and Aeronautics in Florida

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120.¹ The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics to maximize the economic development and job creation opportunities throughout the state." The commission was composed of 16 space industry specialists, economists, and state personnel who met eight times to fulfill this directive. The commission released their final report in January 2006. The recommendations were as follows:

Talent

- 1) Integrate space and aeronautics industry needs into the State's cluster-based workforce development programs.
- 2) Ensure that space industry talent currently involved in the Space Shuttle program is retained after 2010.
- 3) Establish a Center for Mathematics and Science Education Research to enhance K-12 mathematics and science instruction quality.
- 4) Improve K-12 mathematics and science teacher availability through a greater emphasis on teacher recruitment.
- 5) Expand enrollment in, completions of, and retention of graduates from post-secondary degree programs in mathematics, science, and engineering, with emphasis on aerospace fields.
- 6) Provide hands-on opportunities for students to experience and learn about the aerospace industry.
- 7) Increase general awareness of aerospace activities.
- 8) Create a center of excellence with focus on space and aeronautics research and technology.

Economic Diversification

- 9) Position Florida to assemble, test, check out, launch, maintain, and refurbish the Crew Exploration Vehicle.
- 10) Reaffirm space and aeronautics as a statewide target industry with Enterprise Florida as the lead business development agency.
- 11) Expand the tools available for recruitment of space and aeronautics businesses.

¹ Available at http://www.myflorida.com/myflorida/government/governorinitiatives/space_commission/05-120.html.

- 12) Provide targeted support and venture capital for aerospace technology businesses that are created in Florida.

Space Launch Environment

- 13) Support federal efforts to renew and upgrade the infrastructure and technologies at the Cape Canaveral Spaceport and Eastern Range to support the nation's Vision, new military programs, and commercial growth.
- 14) Improve highway, rail, and waterway connections to the Cape Canaveral Spaceport.
- 15) Advocate for enhanced federal procedures and customer service for commercial launches.
- 16) Plan and develop a commercial spaceport targeted initially at horizontal launches and located separately from the federal lands at the Cape.

Management

- 17) Consolidate Florida's existing space entities into a new organization, Space Florida.
- 18) Provide dedicated funding to support innovative education programs or other space initiatives.²

State Space Entities in Florida

There are three statutory space entities in Florida: The Florida Space Authority (FSA), the Florida Space Research Institute (FSRI), and the Florida Aerospace Finance Corporation (FAFC). Each space entity is governed by a board with appointed members. Each board is made up of a combination of public and private sector representatives intended to bring industry expertise to the issues. The FSA executive director serves as a board member on both the FSRI and FAFC boards. Enterprise Florida, Inc., serves on the FSRI and FAFC boards, however, not on the FSA board. Additionally, the Enterprise Florida, Inc., board is not specifically required to maintain space representation.³ Enterprise Florida, Inc., sponsors two stakeholder groups with a relationship to aerospace: the Florida Aviation Aerospace Alliance and the Florida Defense Alliance.

Florida Space Authority

In 1989, the Legislature created the Spaceport Florida Authority Act which established the Spaceport Florida Authority. In 2002, the Legislature renamed it the Florida Space Authority.⁴ Originally conceived as a space transportation authority, Chapter 331, F.S., empowered FSA to perform nearly every function required to develop and operate a spaceport.⁵

Section 331.302(1), F.S., provides legislative intent that the FSA:

- Provide a unified direction for space-related economic growth and educational development to do the following:
 - Ensure a stable and dynamic economic climate;
 - Attract and maintain space-related businesses suitable to the state; and
 - Further the coordination and development of Florida's economy.

Section 331.302(3), F.S., further provides the FSA with the following purposes, functions, and responsibilities:

² *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 4-1.

³ See s. 288.901, F.S.

⁴ On November 20, 2001, the Spaceport Florida Authority's Board of Supervisors voted to change the authority's name to reflect a shift from the authority's mission of primarily launch facilitation to the comprehensive planning and implementation of all phases of space business and economic development, including research and development. The name change of the authority was amended into statutes during the 2002 legislative session. See House of Representatives Staff Analysis for HB 1557, February 24, 2002, pp. 2-3.

⁵ Available at www.floridaspaceauthority.com.

- Develop a strategy for, and implement the acceleration of, space-related economic growth and educational development within the state;
- Provide projects in the state which will develop and improve the entrepreneurial atmosphere;
- Provide coordination among space businesses, Florida universities, space tourism and the Spaceport Florida launch centers; and
- Provide activities designed to stimulate the development of space commerce.⁶

In accordance with s. 331.308, F.S., the FSA Board of Supervisors (board) currently is composed of eight regular members that are appointed by the Governor, a state senator ex officio nonvoting member, a state representative ex officio nonvoting member, and the Lt. Governor, who is chair of the board. All regular members are subject to confirmation by the Senate. The board members must have experience in the aerospace or commercial space industry or in finance, or have other significant relevant experience. Further, one member must represent organized labor interests, one must represent minority interests, and four must represent the space industry.

Florida Space Research Institute

In 1999, the legislature created the Florida Space Research Institute. Originally recommended in a 1988 Space Commission report,⁷ FSRI was created to expand and diversify the state's involvement in space research and technology development. In accordance with s. 331.368(1), F.S., FSRI is to serve as an industry-driven center for research, leveraging the state's resources in a collaborative effort to support Florida's space industry and its expansion, diversification, and transition to commercialization.⁸

On December 15th of each year, FSRI is to report its annual activities and accomplishments to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education. Further, FSRI is to include the following in its report:

- Provide recommendations regarding actions the state should take to enhance the development of space-related businesses, including:
 - Future research activities;
 - The development of capital and technology assistance to new and expanding industries;
 - The removal of regulatory impediments;
 - The establishment of business development incentives; and
 - The initiation of education and training programs to ensure a skilled workforce.⁹

Florida Aerospace Finance Corporation

In 1999, the legislature also created the Florida Commercial Space Financing Corporation and, in 2002, the legislature renamed it the Florida Aerospace Finance Corporation. As provided in s. 331.407(1), F.S., the purpose of FAFC is 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.¹⁰

The purpose of these functions is to support space-related transactions in order to increase the development of commercial aerospace products, activities, services, and facilities within the state. Chapter 331, F.S., authorizes FAFC to do the following:

- Insure, coinsure, lend, and guarantee loans;
- Capitalize, underwrite, and secure funding;
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and related activities;

⁶ See s. 331.302, F.S.

⁷ *Florida Governor's Commission on Space Final Report to Governor Martinez, Steps to the Stars*, July 7, 1988, p. 36.

⁸ See s. 331.368(1), F.S.

⁹ See s. 331.368(8), F.S.

¹⁰ See s. 331.407(1), F.S.

- Acquire property;
- Make and exercise contracts;
- Make direct, guaranteed, or collateralized loans; and
- Create an account for the purposes of receiving state, federal, and financial resources, and to invest in permissible securities.

It is generally understood within the industry that FSRI and FAFC were “spun off” of FSA to provide specialized focus on the accomplishment of specific purposes. An alternative explanation is that the policy scope was too large for one entity and that there was a need for additional organizations as conceived in the 1988 report.

Spaceport Management Council

Section 331.367, F.S., authorizes the Spaceport Management Council (management council), which coordinates between government agencies and commercial operators for the purpose of developing recommendations on projects and activities to increase the operability and capabilities of the state’s space launch facilities, increase statewide space-related industry and opportunities, and promote space education, research, and technology development. The management council is also to create an integrated facility plan and programmatic development plans to address commercial, state, and federal requirements. They are to identify appropriate private, state, and federal resources to implement those plans.

The management council has an executive board which is composed of the executive director of FSA, the Secretary of Transportation, the president of Enterprise Florida, Inc., and the director of the Office of Tourism, Trade, and Economic Development. The management council also has a Space Industry Committee, which is made up of representatives of Florida’s space industry.

Although required by s. 331.367(8), F.S., to meet at least semi-annually, this council, created in 1999, has not functioned as an advisory panel for several years. According to the FSA, this is because the federal members have stated that they cannot participate in such a council due to restrictions placed on them by the Federal Advisory Act.

The federal government agencies (NASA/KSC and the USAF)¹¹ are the landlords of the spaceport, and thus control all activity thereon. The goals of the management council were defeated through lack of authority to implement initiatives. Out of frustration, interest in the council dissolved.¹²

Section 331.367(4)(c), F.S., allows participation by federal entities to contribute to the management council’s effectiveness; however their participation is not mandatory.

Sections 331.367(6) and (7), F.S., require the council to provide “infrastructure and program requirements and develop other information to be utilized in a 5-year spaceport master plan” and provide “requirements and other information to be utilized in the development of a 5-year Spaceport Economic Plan...” Although these plans have been prepared, it has been without the statutorily-required input of the council.

Tax Exemptions for Space Flight Businesses

Section 212.08(5)(j), F.S., provides a 25% tax exemption for machinery and equipment used in defense and space technology facilities to manufacture, process, compound, or produce defense or space products. By definition, this does not include design or creation of a space flight vehicle or components of a space flight vehicle. Section 212.031(1)(a)13., F.S., provides an exemption from the sales tax

¹¹ NASA stands for National Aeronautics and Space Administration; KSC stands for the John F. Kennedy Space Center; and USAF stands for the United States Air Force.

¹² Florida’s 2006 Space Strategy, Florida Space Authority, p. 15.

imposed on the rental of real property for property used for space flight business purposes. "Space flight business" is defined as the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight,¹³ or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto.

A number of developments in recent years are significantly affecting space enterprises in Florida. In January 2004, President Bush committed the United States to a long-term human and robotic program to explore the solar system, starting with a return to the Moon that will ultimately enable future exploration of Mars and other destinations. The President's plan envisions completion of the International Space Station, retirement of the Space Shuttle by 2010, and the introduction of a new Crew Exploration Vehicle (CEV).

The President's new vision has significant implications for Florida. More than half of Florida's current space-related activities are linked to the Space Shuttle and the International Space Station. The smaller CEV will require significantly fewer personnel at the Kennedy Space Center.

The commission recommended increasing the sales and use tax exemptions for space and defense research, development, and production machinery and equipment from 25 to 100 percent.¹⁴ The Governor's FY 2005-06 Budget Recommendations also include this proposed policy.

Centers of Excellence

In 2002, the Florida Technology Development Act (Technology Act) was enacted, which established a process for the State Board of Education to develop, approve, and authorize expenditures for one or more centers of excellence.¹⁵ A center of excellence is one model to stimulate university to industry technology transfer. The Emerging Technologies Commission, created in the Technology Act, subsequently designated three centers of excellence and distributed \$30 million, which was appropriated by the legislature for this purpose.

Currently, there are three technological Centers of Excellence in the state: The Center of Excellence for Regenerative Health Biotechnology at the University of Florida, the Center of Excellence in Biomedical and Marine Biotechnology at Florida Atlantic University, and Florida Photonics Center of Excellence at University of Central Florida. Each center received \$10 million to facilitate collaborative public-private research, create partnerships between industrial and governmental entities to advance knowledge and research, recruit and retain eminent scholars in advanced technology disciplines, and move technologies from academic laboratories to commercial sectors.

The authorizing legislation, s. 1004.225, F.S., sunset on July 1, 2004. Legislation reestablishing centers of excellence failed to pass during the 2005 Legislative Session.

Center for Mathematics and Science Education Research

The Governor's Commission recommended that a Center for Mathematics and Science Education Research be established at a university to enhance the quality of K-12 math and science instruction in the state. The report specified the following:

Modeled after the existing Center for Reading Research, this Center should identify and disseminate effective teaching strategies and materials for science, mathematics, and related disciplines. The Center should be organized with regional

¹³ Section 212.02(23), F.S., defines "space flight" as any flight designed for suborbital, orbital, or interplanetary travel of a space vehicle, satellite, or station of any kind.

¹⁴ *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-15.

¹⁵ See SB 1844, enrolled, 2002 Legislative Session.

partners who can assist in disseminating information and helping teachers and school systems identify professional development programs that can implement key research findings. The Center can build upon existing programs such as FSRI's Project Launch, which uses space as an overarching theme to help improve mathematics and science teaching, particularly in low-performing schools.¹⁶

The Department of Education noted the following:

The establishment of the Florida Center for Mathematics and Science supports the current efforts of secondary reform in Florida. The proposed high school reform efforts include increased graduation requirements in the area of mathematics. The creation of the center would also help facilitate a decreased need for remediation among graduates of Florida's public high schools upon matriculation into postsecondary. The percent of Florida high school graduates entering our community college system in need of remediation in mathematics was 54% in 2003-2004. Additionally, two critical teacher shortage areas are mathematics and science.¹⁷

Effects of the Bill

HB 1489 w/CS contains some of the commission's recommendations regarding the future of aerospace in Florida.

The bill redesignates FSA as Space Florida and dissolves the three statutory entities, FSA, FSRI, and FAFC, effective September 1, 2006.¹⁸ The bill renames FSA as Space Florida throughout Chapter 331 and cross-references in other chapters of the Florida Statutes. It also changes the name of Space Florida's "Board of Supervisors" to "Board of Directors" and the "executive director" to the "president." Space Florida, as the successor organization, is to assume the records, property, obligations, and unexpended balances of appropriations, allocations, or other funds of, the three former entities.

Legislative Findings and Intent

The bill provides legislative findings and intent that there should be a single, private-public board to strengthen civil and military aerospace activity and emerge as a leader in space exploration and commercial aerospace opportunities, including the integration of space, aeronautics and aviation technologies. The intent is that there be a single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector. The bill provides intent that Space Florida will do the following:

- Encourage public and private sectors to work together to enhance the state's workforce, education, and research capabilities with emphasis on math, science, engineering, and related fields;
- Focus on the state's economic development efforts in order to capture a larger share of activity in aerospace research, technology, production, and commercial operations, while maintaining the state's historical leadership in space launch activities; and
- Preserve the national role served by the Cape Canaveral Air Force Station and Kennedy Space Center by reducing costs and improving the regulatory flexibility for commercial launches while pursuing the development of sites for commercial horizontal launches.

¹⁶ *Florida Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-7.

¹⁷ 2006 Legislative Bill Analysis for SB 2580, Department of Education, March 22, 2006, p. 3

¹⁸ The effective date of the act is "upon becoming a law."

Definitions

The bill expands the definitions of the following terms: aerospace, launch pad, person, and project to more accurately reflect the inclusion of commercial space flight activity and emerging technologies within the aerospace industry.

Purpose and Duties of Space Florida

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state governed by a board. It is not clear the type of constitutional organization that is created. However, a 1994 Attorney General Opinion found that the Florida Space Authority, also created as a public corporation, body politic, and subdivision of the state, is an independent special district as defined in s. 189.403(3), F.S.¹⁹

Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. It is also directed to advise, coordinate, cooperate, and, when necessary, enter into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies, and organizations, and other interested persons and groups. Space Florida cannot endorse public office candidates or contribute money to public office campaigns.

The bill changes the due date of the annual report made to the Legislature consisting of a summary of all travel, entertainment, and incidental expenses from the previous fiscal year from November 30 to September 1. It requires an annual performance report due by September 1 for the prior fiscal year.

Currently, a corporation may not incorporate or transact business in the state using the name "spaceport Florida" or "Florida spaceport" without written approval from FSA. The bill expands this list to limit utilization of the names "Space Florida," "Florida Space Authority," "Florida Space Research Institute," and "Florida Aerospace Finance Corporation" by other entities.

Section 331.3051, F.S., is created to assign Space Florida specific duties.

- By March 1, 2007, create a business plan which addresses:
 - Business development;
 - Finance;
 - Spaceport operations;
 - Research and development;
 - Workforce development; and
 - Education.

The remainder of this section categorizes duties within the target areas listed above.

For the business development and finance target areas of Space Florida's duties, the bill directs Space Florida to consult and coordinate with the following entities:

- The Commission on Tourism and EFI to develop a public advertising program promoting aerospace-related activities, businesses, or any Space Florida project.
- EFI to develop a plan to retain, expand, attract, and create public or private aerospace industry entities and to develop a plan to assist in the financing of aerospace businesses.

¹⁹ Attorney General Opinion 94-85, October 12, 1994. NOTE: The opinion addressed the Spaceport Florida Authority; however the name of the entity was amended into statutes during the 2002 legislative session.

The bill directs Space Florida to create a marketing campaign to help attract, develop, and retain aerospace businesses, aerospace research and technology, and other related activities. It requires that the campaign be coordinated with any existing economic development promotion efforts in the state.

For the spaceport operations target area of Space Florida's duties, the bill directs Space Florida to do the following:

- Seek federal support and developing partnerships to renew and upgrade the infrastructure and technologies at the Cape Canaveral Air Force Station, Kennedy Space Center, and the Eastern Range and assist in clarifying roles and responsibilities of federal agencies and eliminate duplicative rules and policies in order to improve and streamline access for commercial launch activities.²⁰
- Promote and facilitate launch activity by assisting commercial launch operators with completing documentation, approval, and authorization requirements from federal agencies.
- Consult with appropriate federal, state, and local authorities and the industry on all aspects of establishing and operating spaceport infrastructure and related facilities.
- Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

For the research and development target areas, the bill directs that Space Florida contract for the operations of the state's Space Life Sciences Laboratory. This is a facility which houses a state-of-the-art space bio-imaging laboratory that provides life sciences research that will be needed for long-duration trips to the Moon and Mars. According to FSRI, the laboratory can support research in many areas, including astrobiology, biomedical space science (radiation effects, bone demineralization, and muscle atrophy) and bioregenerative life support.²¹ Currently, FSRI co-manages this facility with NASA, and manages other leases with universities for use of the laboratory.

Also under the research and development target area of Space Florida's duties, the bill instructs Space Florida to collaborate with public and private universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to "develop commercially promising, advanced, and innovative science and technology and will transfer those discoveries to the commercial sector." A center enables collaboration around research and technologies that support space, military, and defense sectors. See discussion of Centers of Excellence in *Present Situation*.

For the workforce development and education target areas, the bill directs Space Florida to consult and work in conjunction with the following entities:

- Workforce Florida, Inc., and to collaborate with Florida vocational institutes, community colleges, colleges, and public and private universities, to develop a plan to retain, train, and retrain workers with the skills most relevant to aeronautics employers.
- The Department of Education to develop innovative aerospace-related education programs that promote math and science education for grades K-20.

Powers of Space Florida

The bill moves the following powers from FAFC to Space Florida:

²⁰ A repeated voiced concern by many commercial space operators is the lengthy process and large number of regulations that must be adhered to when operating a commercial launch on federal property.

²¹ Florida Space Research Institute, 2005 Annual Report, p. 4.

- Insure, coinsure, lend, and guarantee loans and to originate for sale direct aerospace-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 that supports aerospace launches.
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and any other related activities and services.

The bill moves the following power from FSRI to Space Florida:

- Acquire, accept, or administer grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of this section.

The bill moves the power to establish a personnel management system to the board of directors.

The bill removes the power of eminent domain in spaceport territories from Space Florida. It also repeals s. 331.314, F.S., which provides that FSA has exclusive power and authority to regulate spaceports in Florida.

Board of Directors

A majority of the provisions regarding the composition of the board are the same. The major differences include the following:

- The Governor, rather than the Lieutenant Governor, is to serve as chair of the board.
- Designees of appointed members may not vote.
- Board members are required to file disclosure of financial interests pursuant to s. 112.3145, F.S.
- The board is increased from eight to 20 members. Requirements for membership of the board were increased to include eight Governor-appointed members from the private sector; one of which is to be a representative of organized labor,²² and the following, including their designees: Governor, Secretary of Transportation, president of Workforce Florida, Inc., president of Enterprise Florida, Inc., president of Florida Tourism Commission's direct-support organization, and the Commissioner of Education. Six members are to be appointed from the private sector by the Senate and House of Representatives. There are also two non-voting ex officios - a Senator and a Member of the House of Representatives.

Powers and Duties of Board of Directors

Some provisions that were originally listed in statute as powers are changed to duties, such as selecting an executive director for Space Florida and adopting bylaws, rules, resolutions, and orders.

The bill retains the provision that the executive and Space Florida offices be maintained in close proximity to Kennedy Space Center.

The bill moves the following power from FSRI to Space Florida:

- To provide the strategic direction for the aerospace-related research priorities of the state and it's aerospace-related businesses, scope of research projects, and the timeframe for completion of the projects.

²² The Governor is directed to attempt to ensure that the board includes, but is not limited to, individuals representing the industries of business, finance, marketing, space, aerospace, aviation, defense, research and development, and education. The Governor is also to "consider whether the current members of the board, together with potential appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population of the state."

The board is authorized to finance aerospace business development projects or initiatives using the funds appropriated.

Personnel management and the establishment of procedures, rules, and rates governing per diem and travel expenses of employees are moved from the responsibility of Space Florida to the board.

The board no longer has the authority to change the name of Space Florida.

The Office of Tourism, Trade, and Economic Development

Section 14.2015, F.S., is amended by the bill to authorize the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the Space Florida contract with the state.

Tax Issues

The bill amends s. 212.08(5)(j), F.S., which provides for sales and use tax exemptions. It adds "design" and "assemble" to the list of industrial machinery and equipment used in defense of space technology facilities and strikes the current 25 percent tax credit, allowing these items to be fully tax exempt. The bill expands the definition of research and development to include the "design, development, and testing of space launch vehicles, space flight vehicles, missiles, satellites, or research payloads, avionics, and associated control systems and processing systems, and components of any of the foregoing." It adds space flight vehicles and "components of any of the foregoing" to the definition of "space technology products."

Center for Mathematics and Science Education Research

The bill directs the Department of Education (DOE) to establish the Florida Center for Mathematics and Science Education Research at a state university to increase student achievement in those academic areas. DOE is to monitor the center through the Division of K-12 Public Schools. The bill requires the center to do the following:

- Provide technical assistance and support to school districts and schools in the development and implementation of math and science instruction;
- Conduct applied research on policy and practices related to math and science instruction and assessment in the state;
- Conduct or compile basic research regarding student acquisition of math and science knowledge and skills;
- Develop comprehensive course frameworks for math and science courses that emphasize rigor and relevance at the elementary, middle, and high school levels;
- Disseminate information regarding research-based teaching practices in math and science to teachers and teacher educators in the state;
- Collect, manage, and report on assessment information regarding student achievement in mathematics and science;
- Establish partnerships with state universities, community colleges, and school districts; and
- Collaborate with the Florida Center for Reading Research in order to provide research-based practices that integrate the teaching of reading within mathematics and sciences courses.

Spaceport Management Council

The bill repeals s. 331.367, F.S., which provides for the Spaceport Management Council.

Dissolution of FSA, FSRI, and FAFC

The bill dissolves the FSA, FSRI, and FAFC and their corresponding boards effective September 1, 2006. Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. Personnel are not included in the list for transfer. Most of the functions and responsibilities of FSRI and FAFC are not replicated in the language for Space Florida. There is a concern that many of the financial tools that FAFC currently has have been eliminated with the dissolution. The separate existence and not-for-profit status of this corporation allowed it to facilitate and accomplish deals that may not be available under the new language. Similarly, most of the research capabilities and partnerships that were available through FSRI and the advantages of its not-for-profit status seem to be obsolete under the amended chapter.

The bill directs the Governor, the Senate President, and the House Speaker to appoint the board of directors by July 1, 2006. The board is to hold its first meeting by August 1st and appoint a president by September 1st. The Executive Office of the Governor is to provide staffing and transitional support until December 31, 2006.

Appropriations

The bill provides the following nonrecurring appropriations from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development:

- \$35 million to be used for infrastructure needs related to the development of the National Aeronautics and Space Administration's Crew Exploration Vehicle.
- \$8 million for implementation of recommendations made by the Governor's Commission on the Future of Space and Aeronautics in Florida, including, but not limited to, commercial launch assistance and spaceport development.

The bill provides the following recurring appropriations from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development:

- \$3 million for the operational needs of Space Florida.
- \$4 million for implementation of innovative education programs and financing assistance for aerospace business development projects.

C. SECTION DIRECTORY:

Section 1. amends s. 331.301, F.S.; redesignates the "Florida Space Authority Act" as the "Space Florida Act."

Section 2. creates s. 331.3011, F.S.; provides legislative findings and intent.

Section 3. amends s. 331.302, F.S.; creates Space Florida; provides purpose.

Section 4. amends s. 331.303, F.S.; removes, revises, and provides definitions.

Section 5. amends s. 331.305, F.S., revises powers of Space Florida.

Section 6. creates s. 331.3051, F.S.; provides new duties for Space Florida.

Section 8. amends s. 331.308, F.S.; revises membership and requirements of the Space Florida board of directors.

Section 9. amends s. 331.309, F.S.; revises depository language.

Section 10. amends s. 331.310, F.S.; revises powers and duties of the board of supervisors.

Section 11. amends s. 331.3101, F.S.; revises annual report submission date.

Section 48. amends s. 331.355, F.S.; revises requirements for use of names.

Section 51. amends s. 14.2015, F.S.; authorizes the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the state with Space Florida.

Sections 52. amends s. 74.011, F.S.; removes Florida Space Authority from eminent domain language.

Sections 7, 12-47, 49, 50, and 53-58 amend ss. 196.012, 212.02, 288.063, 288.075, 288.35, 288.9415, 331.306, 331.311, 331.312, 331.313, 331.315, 331.316, 331.317, 331.318, 331.319, 331.320, 331.321, 331.322, 331.323, 331.324, 331.325, 331.326, 331.327, 331.328, 331.329, 331.331, 331.333, 331.334, 331.335, 331.336, 331.337, 331.338, 331.339, 331.340, 331.343, 331.345, 331.346, 331.347, 331.348, 331.349, 331.350, 331.351, 331.354, 331.360, and 331.369, F.S.; conform provisions and cross-references.

Section 59. amends s. 212.08, F.S.; expands the exemption from the sales and use tax on certain machinery and equipment.

Section 60. creates s. 1004.86, F.S.; requires the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a public state university; specifying requirements for the center.

Section 61. repeals s. 331.314, F.S., relating to the exclusive authority of the Florida Space Authority to regulate spaceports; repeals s. 331.367, F.S., relating to the Spaceport Management Council; repeals s. 331.368, F.S., relating to the Florida Space Research Institute; repeals ss. 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, and 331.419, F.S., relating to the Florida Aerospace Finance Corporation.

Section 62. dissolves the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation.

Section 63. requires the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint the board of directors of Space Florida by a July 1, 2006; requires the board of directors of Space Florida to hold its first meeting by August 1, 2006; requires the board to appoint a president by September 1, 2006.

Section 64. amends s. 288.1224, F.S.; requires the Florida Commission on Tourism to advise and cooperate with Space Florida.

Section 65. amends 288.9015, F.S.; requires Enterprise Florida, Inc to advise and cooperate with Space Florida.

Section 66. amends 445.004, F.S.; requires Workforce Florida, Inc to advise and cooperate with Space Florida.

Section 67. amends s. 1001.10, F.S.; requires the Commissioner of Education to advise and cooperate with Space Florida.

Section 68. provides a \$43 million appropriation of nonrecurring general revenue and a \$7 million appropriation of recurring general revenue to the Office of Tourism, Trade and Economic Development.

Section 69. provides that the act take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the provisions of Section 59. of the bill (sales and use tax exemptions) will have an annualized negative impact of \$2.8 million on the state General Revenue Fund in FY 2006.

2. Expenditures:

The bill appropriates \$43 million nonrecurring and \$7 million recurring from the General Revenue Fund to the Office of Tourism, Trade and Economic Development.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of Section 59. of the bill (sales and use tax exemptions) will have an annualized negative impact of \$.6 million on local revenues for FY 2006.

2. Expenditures:

The bill is not expected to have an effect on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the tax burden on businesses that are eligible for the sales and use tax exemptions on machinery and equipment for space and defense.

D. FISCAL COMMENTS:

In Fiscal Year 2005-2006, the Legislature appropriated \$2.9 million for Space Business Development, which included: \$700,000 for Florida Space Authority – Operations; \$550,000 for Florida Space Authority – Space Business Development; \$550,000 for Florida Space Authority – Spaceport P&D; \$300,000 for Florida Aerospace Financing Corporation, and \$800,000 for the Florida Space Research Institute. In addition, \$3 million was appropriated for Aerospace QTI/Crew Exploration Vehicle.

The Governor's budget recommendations for FY 2006-07 recommend \$2 million from General Revenue for the purpose of establishing a Center for Mathematics and Science Education Research. It recommends \$11 from General Revenue Space Florida operations and spaceport development.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or cities to spend funds or take action 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:

Section 6 of Article IV of the Florida Constitution provides that “all functions of the executive branch of state government shall be allotted among not more than twenty-five departments....” and that the administration of each department be placed under the direct supervision of any of five entities, one of which is the Governor. It would appear that Space Florida would constitute a department headed by the Governor. As an alternative, Space Florida could be assigned to an existing executive department and placed under the direct supervision of the head of such department.

Appointment of officers to a board is an executive duty. Providing the President of the Senate and the Speaker of the House of Representatives with appointment powers confuses the powers as assigned by the Florida Constitution. This might be considered a separation of powers concern.

If Space Florida, as created under this bill, is an independent special district, the bill is a general law of local application. Article III, section 11(a)(21) of the state constitution requires a three-fifths vote of the legislature to enact such laws.

B. RULE-MAKING AUTHORITY:

The bill provides Space Florida sufficient rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The FSA, FSRI, and FAFC are dissolved effective September 1, 2006, and Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. FSRI and FAFC are not-for-profit corporations established to carry out a specified public purpose. Without state funding, the corporations may cease to exist. Due diligence should be exercised with respect to financial matters and completion of tasks in which the corporations are currently engaged.

If the newly created Space Florida is found to be an independent special district, the bill is a general law of local application and requires a three-fifths votes of the legislature to be enacted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Spaceport and Technology Committee passed the bill as a committee substitute, adopting a strike-all amendment that included the following changes:

- Removed definitions of terms not referred to in Chapter 331.
- Changed approval of bond issuance vote from two-thirds of the Governor and Cabinet to three-fourths to accommodate the reduced number of cabinet members since the law was established.
- Added that business development projects could be funded with monies from the sales tax revenues collected from the Cape Canaveral Air Force Station and Kennedy Space Center and distributed to Space Florida (in Section 60 of the bill). The original bill only authorized the funds to be used for education initiatives.
- Added that Space Florida and its executive office must remain in close proximity to Kennedy Space Center.
- Increased the number of Governor-appointed members of the board from seven to eight, stipulating that one of the appointees must be a representative of organized labor.
- Added that members of the board of directors must be state residents.
- Provided for an annual performance report with respect to Space Florida's business plan.
- Removed memoranda of agreement language and replaced with direction to advise and cooperate with state entities and partners in the areas of economic development, marketing, and education.

- Made technical corrections.

At the April 4, 2006, meeting, the Fiscal Council approved HB 1489 w/CS with two amendments. The first amendment provided a \$43 million nonrecurring appropriation from the General Revenue Fund and a \$7 million recurring appropriation from the General Revenue Fund. The second amendment removed the section of the bill that directed sales tax collected from dealers at Cape Canaveral Air Force Station and the Kennedy Space Center be distributed to Space Florida to be used for business development projects and education initiatives.