

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4033 Technological Research & Development Authority

SPONSOR(S): Workman and others

TIED BILLS: HB 1013 **IDEN./SIM. BILLS:** SB 954

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N	Thompson	Miller
2) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N	Rayman	Davis
3) Economic Affairs Committee	16 Y, 0 N	Thompson	Creamer

SUMMARY ANALYSIS

The Technological Research and Development Authority (TRDA) is an independent special district headquartered in Melbourne, Florida, and administered by a five-member commission of Brevard County residents who are appointed by the Governor to serve four-year terms. The TRDA is codified as a technology-based economic development organization with the purposes of promoting research and development and fostering higher education in Brevard County to diversify the economic base of the county and state, and to serve the public good.

Recently as the result of a civil lawsuit filed by the United States Department of Justice, the TRDA has agreed to resolve allegations that it violated the False Claims Act in connection with the misuse of certain federal grants, and to wind down its operations.

HB 4033 removes all references to the TRDA from Florida Statutes. Effective September 30, 2013, the bill deletes the 50 percent distribution to the TRDA of the annual use fee collected through the sale of Challenger/Columbia specialty license plates, and redistributes the full collection of annual use fees to the Astronauts Memorial Foundation, Inc., to support the operations of the Center for Space Education and the Education Technology Institute.

Effective July 1, 2013, the bill removes the TRDA from the research institutions that are eligible to receive funds from the Marine Resources Conservation Trust Fund.

Effective December 31, 2013, the bill removes the Florida gift law authorization reference to the TRDA.

The bill is linked to HB 1013 (2013), which effectively dissolves the TRDA on December 31, 2013.

The bill will have a positive fiscal impact on the Astronauts Memorial Foundation, Inc. There is an insignificant fiscal impact on Department of Highway Safety and Motor Vehicles who states it can absorb the programming costs within existing resources.

The bill provides an effective date of upon becoming law except as otherwise provided within the bill; effectiveness is contingent on HB 1013 or similar legislation being adopted during the 2013 legislative session.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Technological Research and Development Authority

The Technological Research and Development Authority (TRDA) is an independent special district headquartered in Melbourne, Florida, and is administered by a five-member commission of Brevard County residents who are appointed by the Governor to serve four-year terms. The TRDA is codified in ch.2005-337, L.O.F., as a technology-based economic development organization with the purposes of promoting research and development and fostering higher education in Brevard County to diversify the economic base of the county and state, and to serve the public good.

Recently, the TRDA and Melbourne Airport Authority in Melbourne, Florida, entered into an agreement to use National Aeronautics and Space Administration (NASA) and Economic Development Administration of the federal Department of Commerce (EDA) grant funds to construct an office building at the airport to be used as the TRDA's headquarters and an incubator facility. However, a civil lawsuit (United States v. Technological Research and Development Authority, No. 1:12-cv-00065-LG-JMR.) was filed in the U.S. District Court for the Southern District of Mississippi against the TRDA on behalf of NASA and the EDA. In the lawsuit, the United States alleged that construction of the office building was outside the scope of the NASA grants awarded to the TRDA and contrary to the terms of the EDA grant, which prohibited combining funds from more than one federal agency for the project. Under the terms of a consent judgment executed by the TRDA, the TRDA has agreed to pay \$15 million to resolve allegations that it violated the False Claims Act¹ in connection with the grants, and to wind down its operations. The claims settled by the agreements are allegations only. As such, there has been no determination of liability.²

The Challenger/Columbia License Plate

The Challenger/Columbia license plate, administered by the Department of Highway Safety and Motor Vehicles (DHSMV), commemorates the seven astronauts who died when the space shuttle Challenger exploded on liftoff in 1986, and the seven astronauts who died when the Columbia exploded on reentry in 2003.³ Current law allocates 50 percent of the Challenger/Columbia license plate annual use fee to the Astronauts Memorial Foundation, Inc.,⁴ to support the operations of the Center for Space Education and the Education Technology Institute.⁵ The other 50 percent is distributed to the TRDA, for the purpose of funding space-related research grants, the Teacher/Quest Scholarship Program under s. 1009.61, F.S., as approved by the Florida Department of Education and space-related economic development programs. The TRDA coordinates and distributes available resources among state universities and independent colleges and universities based on the research strengths of such institutions in space science technology, community colleges, public school districts, and not-for-profit educational organizations.⁶

The Marine Resources Conservation Trust Fund

¹ The False Claims Act (31 U.S.C. §§ 3729–3733, also called the "Lincoln Law") is a federal law that imposes liability on persons and companies (typically federal contractors) who defraud governmental programs.

² The United States Department of Justice, Office of Public Affairs, *Florida's Technological Research and Development Authority Pays \$15 Million to Resolve False Claims Allegations*, Tuesday, November 20, 2012.

³ Section 320.08058, F.S.

⁴ The Astronauts Memorial Foundation honors and memorializes those astronauts who have sacrificed their lives for the nation and the space program by sponsoring the national Space Mirror Memorial, and implementing innovative educational technology programs. The Memorial was founded in the wake of the Challenger accident 1986. <http://floridaspacegrant.org/affiliates-info/the-astronauts-memorial-foundation/> (last visited March 13, 2013).

⁵ Section 320.08058(2)(b), F.S.

⁶ Section 320.08058(2)(c), F.S.

The Marine Resources Conservation Trust Fund within the Fish and Wildlife Conservation Commission (FWC) serves as a broad-based depository for funds from various marine-related and boating-related activities and is administered by FWC.⁷ Current law allocates 32.5 percent of the saltwater license and permit fees collected and deposited into the Marine Resources Conservation Trust Fund to be used for marine research and management.⁸ The FWC is authorized to award such moneys through grants and contracts to certain research institutions including the TRDA.⁹

The Florida Gift Law

Current law governing the reporting and prohibited receipt of gifts¹⁰ to public officers, popularly known as Florida's gift law, prohibits a reporting individual¹¹ or procurement employee¹² from soliciting or knowingly accepting any gift from a political committee, committee of continuous existence, a lobbyist; or an employer, principal, partner or firm of a lobbyist.¹³ However, the gift law authorizes certain governmental entities, including the TRDA, either directly or indirectly, to give a gift having a value in excess of \$100 to any reporting individual or procurement employee, and authorizes the reporting individual or procurement employee to accept such a gift.

House Bill 1013

House Bill (HB) 1013 is a local bill that repeals the special act charter for the TRDA, and dissolves the district effective December 31, 2013. The bill also provides that effective September 30, 2013, the TRDA will no longer receive user fees collected by DHSMV from the sale of Challenger/Columbia specialty license plates and transfers all assets and indebtedness of the district, if any, to Brevard County.

Proposed Changes

Effective September 30, 2013, the bill deletes the 50 percent distribution to the TRDA, of the annual use fee collected through the sale of Challenger/Columbia specialty license plates, and redistributes the full collection of the fee to the Astronauts Memorial Foundation, Inc.

Effective July 1, 2013, the bill removes the TRDA from the research institutions eligible to receive funds from the Marine Resources Conservation Trust Fund.

Effective December 31, 2013, the bill removes the authority for the TRDA to give a gift having a value in excess of \$100 to any reporting individual or procurement employee under the Florida gift law.

The bill is linked to, and, thereby contingent upon, the passage of HB 1013 (2013), which effectively dissolves the TRDA on December 31, 2013.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.08058, F.S., relating to the Challenger/Columbia license plates; effective September 30, 2013.

⁷ Section 379.208(1), F.S.

⁸ Section 379.2201(1)(c), F.S.

⁹ Section 379.2202, F.S.

¹⁰ "Gift" is defined in s. 112.312(12), F.S., and encompasses nearly anything of value.

¹¹ Section 112.3148(2)(d), F.S., defines a "reporting individual" as anyone who is required to file financial disclosure, including candidates.

¹² Section 112.3148(2)(e), F.S., defines a "procurement employee" as an employee of an officer, department, board, commission, or council of the executive or judicial branch of state government who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds \$1,000 in any year.

¹³ Section 112.3148(3)and(4), F.S.

Section 2: Amends s. 379.2202, F.S., relating to expenditure of funds; effective July 1, 2013.

Section 3: Amends s. 112.3148(6), F.S., relating to reporting and prohibiting receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees; effective December 31, 2013.

Section 4: Provides an effective date of upon becoming law except as otherwise provided within the bill; effectiveness is contingent on HB 1013 or similar legislation being adopted during the 2013 legislative session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Insignificant. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill redistributes the full collection of the annual use fee collected through the sale of Challenger/Columbia specialty license plates to the Astronauts Memorial Foundation, Inc. The amount of the distribution varies based on the number of license plates sold or renewed each year. In Fiscal Year 2011-12, \$300,019.52¹⁴ was distributed to the TRDA from sales of this license plate.

D. FISCAL COMMENTS:

The Department of Highway Safety and Motor Vehicles estimates one-time minimal hours of programming cost is required for the revisions in the bill and it will accommodate this within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

¹⁴ Information received from the Department of Highway Safety and Motor Vehicles, March 18, 2013 (email on file with the Transportation and Highway Safety Subcommittee).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is linked to, and, thereby contingent upon, the passage of HB 1013 (2013), which effectively dissolves the TRDA on December 31, 2013.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES