

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1070 (803742)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Space Florida

DATE: March 2, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Caldwell</u>	<u>Caldwell</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>Hrdlicka</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1070 clarifies the authority of Space Florida to issue bonds. Under the bill, Space Florida is authorized to issue revenue bonds or any other type of debt, including bank loans. The bill repeals both the requirement that Space Florida notify the presiding officers and appropriations chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet and the requirement for the Governor and Cabinet to approve the bond's issuance.

The bill clarifies that Space Florida is subject to the minimum credit-worthiness requirements in section 189.051, Florida Statutes, and authorizes the entity to validate its bonds pursuant to chapter 75, Florida Statutes, which provides generally for government-issued bond validation. The term for which Space Florida may issue a bond is shortened to 30 years from 40 years.

Conforming changes to bond references are made to relevant sections of chapter 331, Florida Statutes, and statutes that address pledging the full faith and credit of Space Florida, the issuance of bond anticipation notes, and short-term borrowing are repealed.

The bill takes effect July 1, 2020.

II. Present Situation:

Space Florida was created as an independent special district,¹ a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state.² Space Florida is governed by a 13-member independent board of directors that consists of the same members of the board of directors of Enterprise Florida, Inc., that are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor serves ex officio, or may appoint a designee to serve as the chair and a voting member of the board.³

The purpose of Space Florida is to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. To accomplish its purpose, Space Florida advises, coordinates, cooperates, and, when necessary, enters into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.⁴ Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; undertake joint financing with municipalities or private sector entities for any project; and issue revenue, assessment, or other bonds.⁵

Bonding Authority of Space Florida

Space Florida is authorized by law to issue bonds, which means revenue bonds, assessment bonds, or other bonds or obligations issued by Space Florida for the purpose of raising financing for projects. The board of directors, by resolution at a noticed and public meeting, authorizes the issuance of bonds, fixes the aggregate amount of bonds to be issued, and sets the terms, covenants, and conditions of the bonds, including the purpose, the interest rate, issuance and maturity dates, terms of execution, and redemption terms. However, the law specifies that a bond's term cannot exceed 40 years from the date of issuance.⁶

According to Space Florida, it and its predecessor organizations have entered into debt financing transactions with banks totaling nearly \$1 billion.⁷ "Proceeds from these financings have been used to make infrastructure improvements, construct facilities, and acquire machinery, equipment and tooling necessary by Florida's aerospace and defense industrial base and government partners like NASA and the USAF."⁸ Space Florida's bonds can be used to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects to provide for any

¹ Chapter 189, F.S.

² Section 331.302, F.S. Space Florida is not an agency as defined in ss. 216.011 and 287.012, F.S. Space Florida is subject to applicable provisions of the Uniform Special District Accountability Act.

³ Section 331.3081, F.S. For a list of the current board of directors, see the Space Florida website, *Board of Directors*, available at <https://www.spaceflorida.gov/about/board-of-directors/> (last visited Feb. 7, 2020).

⁴ Section 331.302, F.S.

⁵ Section 331.305, F.S.

⁶ Section 331.340, F.S.

⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

⁸ *Id.*

facility, service, or other activity of Space Florida. This includes payloads and space flight hardware and equipment for research, development, and educational activities.⁹

Pledging Revenues for Bonds

The issuance of revenue bonds by Space Florida may be secured by or payable from:

- The gross or net pledge of the revenues that are derived from any project or combination of projects.
- The rates, fees, rentals, tolls, fares, or other charges to be collected from the users of any project or projects.
- Any revenue-producing undertaking or activity of Space Florida.
- Any source of pledged security.¹⁰

Section 331.334, F.S., also contains similar language allowing the board of directors to pledge the revenues of any Space Florida project for a bond.¹¹ It also allows the board to pledge or mortgage any of the properties, rights, interest, or other assets of Space Florida.

Further, s. 331.334, F.S., allows Space Florida, pursuant to its powers as a special district, to hold an election to pledge its full faith and credit for any of its bonds. Pursuant to s. 331.331, F.S., unless bonds are secured by the full faith and credit of Space Florida, they do not constitute an indebtedness of Space Florida. Bonds issued by Space Florida are not secured by the full faith and credit of the State of Florida and do not constitute an obligation, either general or special, thereof.¹²

Pursuant to s. 331.335, F.S., all pledges of revenues and assessments made by Space Florida are valid and binding from the time the pledges are made and are immediately subject to the lien of the pledges upon collection. The lien attaches without further action and is considered valid and binding against all parties with any claims against Space Florida, irrespective of whether such parties have any notice of the pledge/lien.

Approval of Bonds

Space Florida is currently required to provide 14 days' notice to the presiding officers and appropriations committee chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of three-fourths of the members of the Governor and Cabinet.¹³

Space Florida's predecessor agency was created in 1989 and this requirement for notice and approval was part of the enacting legislation.¹⁴ The legislation limited the amount of bonds that Space Florida could issue and specifically required approval by the Governor and Cabinet.

⁹ Section 331.305(20), F.S.

¹⁰ Section 331.331, F.S.

¹¹ This includes revenues from any project of Space Florida, utility service, assessments, and any other sources of revenue or funds, or any combination of the foregoing.

¹² Sections 331.331 and 331.334, F.S.

¹³ Section 331.305(20), F.S.

¹⁴ Chapter 89-300, L.O.F.

In 1991, the legislature allowed conduit bonds to be exempt from the notice and approval requirements.¹⁵ In 1999, the specific provision related to the amount of bonds that Space Florida could issue and approval of bonds by the Governor and Cabinet was repealed as obsolete.¹⁶

The 1999 repeal created an ambiguity in the statute. Space Florida states that the exact role of the Governor and Cabinet is unclear. Because the bonds that Space Florida issues do not pledge the full faith and credit of Space Florida (and do not pledge the full faith and credit of the state) and are typically revenue bonds for conduit financing, the “result of past requests for formal action by the Governor and Cabinet has been a resolution recognizing a valid exercise of statutorily-granted powers by the Board of Directors.”¹⁷

Validation of Bonds

Section 331.346, F.S., provides for the validity of bonds and the procedures by which bonds issued by Space Florida are validated. Chapter 75, F.S., also specifies the procedures for bond validation issued by entities of the state. While the provisions are similar, ch. 75, F.S., provides greater specificity as to jurisdiction over claims, notice, appeal, review, as well as commencement of actions after validation.

Borrowing Authority of Space Florida

Borrowing Against Anticipated Bond Proceeds

Section 331.336, F.S., authorizes Space Florida to issue bond anticipation notes. At any time after the issuance of bonds has been authorized by the Space Florida board of directors, Space Florida can borrow money to be used for the same purposes for which the bonds are to be issued and issue notes in anticipation of the receipt of the proceeds of the sale of the bonds.¹⁸ The principal amount of the bond anticipation notes which are issued cannot exceed the authorized maximum amount of the bonds to be issued. The notes must be repaid from the proceeds of the bonds when issued. However, the board can elect to repay the notes using current revenues or other assessments levied for the payment of the bonds, but, in such event, a like amount of the bonds authorized may not be issued.¹⁹

Short-Term Borrowing

Section 331.337, F.S., specifically allows Space Florida to obtain loans to pay its expenses or costs incurred in connection with a project. Loans may be issued as negotiable notes, warrants, or other evidences of debt signed on behalf of Space Florida by any board member. The board of

¹⁵ Chapter 91-265, L.O.F. The term “conduit bond” was defined to mean “any bond of the authority which is a nonrecourse obligation of the authority payable from the proceeds of such bonds and related financing agreements.”

Section 331.303(6), F.S. (1992).

¹⁶ See s. 73, ch. 99-385, L.O.F.

¹⁷ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

¹⁸ The notes must be in such denomination or denominations, bear interest at such rate or rates, mature at such time or times, be renewable for such additional term or terms, and be in such form and executed in such manner as the board prescribes. The notes may be sold at public sale, or if such notes are renewable notes, may be exchanged for notes then outstanding on such terms as the board determines. Notes are to be paid from the proceeds of such bonds when issued.

¹⁹ Section 331.336, F.S.

directors may pledge any funds, revenues, or assessments of Space Florida to pay the loans and interest.

III. Effect of Proposed Changes:

Section 1 amends s. 331.302, F.S., to clarify that as a special district, Space Florida is subject to s. 189.051, F.S., which provides minimum credit-worthiness requirements for bond issuance if a referendum is not required. Under s. 189.051, F.S., a special district must ensure that, at time of closing, the bonds meet at least one of the following requirements:

- The bonds were rated in one of the highest four ratings by a nationally recognized rating service;
- The bonds were privately placed with or otherwise sold to accredited investors;
- The bonds were backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance, guaranteeing payment of principal and interest on the bonds; or
- The bonds were accompanied by an independent financial advisory opinion stating that estimates of debt service coverage and probability of debt repayment are reasonable. The opinion must be provided by an independent financial advisory, consulting, or accounting firm registered where professional registration is required by law and which is in good standing with the state and in conformance with all applicable professional standards for such opinions.

Space Florida states that it has been subject to this requirement and has fully complied with it in every instance of borrowing.²⁰

Section 2 amends s. 331.303(3), F.S., to revise the meaning of the term “bonds” to mean revenues bonds or any other type of debt, including bank loans, issued for financing Space Florida projects. The inclusion of “or any other type of debt, including bank loans,” allows Space Florida to continue to do short-term borrowing and conduit financing. **Section 10** repeals s. 331.337, F.S., which specifically allows Space Florida to obtain loans.

The bill deletes reference to assessment bonds or other types of bonds in the definition of the term “bonds.” To conform to this change, **Sections 3, 4, and 5** amend ss. 331.305, 331.331, and 331.335, F.S.

Section 3 amends s. 331.305(2), F.S., to specify that environmental mitigation is a cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued to provide for any facility, service, or other activity of Space Florida

Section 3 also amends s. 331.305(20), F.S., to repeal the provisions related to notice and objection requirements by the presiding officers and appropriations chairs of both houses of the Legislature and the approval of bonds by the Governor and Cabinet. These steps will no longer be required for Space Florida to issue bonds, similar to other independent special districts.

²⁰ Space Florida, *Space Florida Bonding Authority*, information sheet for SB 1070 (On file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

Section 4 also amends s. 331.331(2), F.S., to specify that state appropriations may not be used as a pledged revenue source and that revenue bonds may not be secured by the full faith and credit of Space Florida. **Section 8** repeals s. 331.334, F.S., which allows Space Florida to pledge its full faith and credit for any of its bonds.

Section 6 amends s. 331.340, F.S., to reduce the maximum term for which a bond may be issued to 30 years from 40 years.

Section 7 amends s. 331.346, F.S., to authorize Space Florida, as an alternative, to validate its bonds pursuant to ch. 75, F.S., which is a process used by other Florida governmental entities and is more familiar to the bonding community.

Section 9 repeals s. 331.336, F.S., which allows Space Florida to issue bond anticipation notes.

The changes made to Space Florida's bonding authority allow Space Florida to issue bonds on its own behalf, as well as on a conduit basis, but Space Florida will not have the authority to issue general obligation bonds.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Businesses and individuals from the private sector working with Space Florida could benefit to the extent that these changes improve Space Florida's ability to issue bonds for projects. Space Florida states that as the aerospace industry expands across the state and transitions more to the private sector than government programs, bonding will be a more useful tool in developing the critical common-use infrastructure (commodities, road and bridge improvements, etc.) given the expected lower cost of capital bonds attributable to long-term fixed interest rates and longer amortization periods when compared to bank loans.²¹

C. Government Sector Impact:

The bill is not expected to create increased costs or generate additional revenues for Space Florida. The bill may reduce the time it takes Space Florida to issue bonds, which could result in some cost savings associated with the bond issuance. According to Space Florida:

[Space Florida] expects that issuing bonds would become a more viable and effective business development tool, allowing SF to solicit competitive financing proposals from bank and non-bank lenders (currently, the issuance of bonds has not been a widely utilized tool because the lack of clarity of roles and responsibilities could subject SF-issued bonds to invalidation). A competitive financing marketplace leads to lower cost of capital and better financing terms for SF and the industry it is supporting.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill repeals provisions under which either legislative presiding officer or appropriations chair could object to a bond issuance, triggering a higher vote requirement for the Governor and Cabinet approval. While this may seem to be a loss of oversight authority for both the legislative and executive branches, this may not be so. With the other changes in the bill, Space Florida is authorized only issue conduit bonds and bonds on its own behalf, which have no effect on legislative budgetary authority and do not undermine any governmental oversight. Additionally,

²¹ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)

²² *Id.*

the current practice is for the Governor and Cabinet simply to issue a resolution acknowledging Space Florida's authority to issue conduit bonds in accordance with and in furtherance of Space Florida's statutory purpose.²³ The bill may reduce the time it takes Space Florida to issue bonds by removing the notice and approval steps from the process. Space Florida expects that the resolution of the ambiguity will allow it to participate in more competitive financing, which will lead to a lower cost of capital and better financing terms for Space Florida and the industry it supports.²⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 331.302, 331.303, 331.305, 331.331, 331.335, 331.340, and 331.346.

The bill repeals the following sections of the Florida Statutes: 331.334, 331.336, and 331.337.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 13, 2020:

The committee substitute adds environmental mitigation as an included cost that can be paid for as part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects for which bonds are issued.

CS by Military and Veterans Affairs and Space on January 21, 2020:

The committee substitute provides for a litany of terms and conditions that the board may require for the bonds and includes: “the purpose or purposes for which the moneys derived therefrom shall be expanded.” As the term “expanded” does not make sense, the more appropriate term “expended” is substituted and the board may designate how the proceeds of the bonds must be spent.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²³ See *Resolution* by the Governor and Cabinet dated September 20, 2016, and *Resolution of the Space Florida Board of Directors, Space Florida Taxable Lease Revenue Bonds, Series 2016 A & B, (Project Sabal)*. (On file with the Senate Committee on Military and Veterans Affairs and Space.)

²⁴ Keevin Williams, Vice-President of Special Projects-Space Florida, *Space Florida Bonding Rewrite Request Justification*, (Dec. 27, 2019) (On file with the Senate Committee on Military and Veteran Affairs and Space.)