

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 Military and Veterans Affairs and Space

BILL: CS/SB 1070

INTRODUCER: Senator Wright

SUBJECT: Space Florida

DATE: January 21, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|---------------|
| 1. | Caldwell | Caldwell | MS | Fav/CS |
| 2. | | | ATD | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1070 revises the authority of Space Florida to issue bonds by expanding the definition of the term “bonds” to include “other type of debt including bank loans.” The bill also removes 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 its issuance. The term for which Space Florida may issue a bond is shortened to 30 years from 40 years. In addition to its specific authority, Space Florida may, as an alternative, validate its bonds pursuant to Ch. 75, F.S., which provides generally for government issued bond validation.

Conforming changes to bond references are made to relevant sections of Ch. 331, F.S., and sections addressing pledging assessments and other revenues and properties as additional security on bonds, the issuance of bond anticipation notes, and short-term borrowing are repealed.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 district¹, 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. 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.² Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; and undertake joint financing with municipalities or private sector entities for any project.³

Space Florida is governed by a 13-member independent board of directors that consists of members appointed by the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the board of directors of Enterprise Florida, Inc.⁴ The Governor serves ex officio, or may appoint a designee to serve as the chair and a voting member of the board.⁵

The board, 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 purpose or purposes for which the moneys derived therefrom shall be expanded;
- The rate or rates of interest;
- The denomination of the bonds;
- Whether or not the bonds are to be issued in one or more series;
- The date or dates thereof;
- The date or dates of maturity;
- The medium of payment;
- The place or places within or outside the state where payment shall be made;
- Registration privileges;
- Redemption terms and privileges (whether with or without premium);
- The manner of execution;
- The form of the bonds including any interest coupons to be attached thereto;

¹ Chapter 189, F.S.

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

³ Section 331.305, F.S.

⁴ Section 331.3081., F.S.

⁵ According to the Space Florida website, the following are members of the board: Lieutenant Governor Jeanette Nunez; Jay Beyrouiti, President, Monicarla, LTD.; Jesse Biter, Pres. and CEO, Biter Enterprises; Gregory Celestan, CEO, Celestar Corp.; Sonya Deen, V.P of Gov. Relations, JM Family Enterprises; Belinda Keiser, Vice Chancellor of Community Relations and Student Advancement, Keiser University; Katherine San Pedro, Partner, Ballard Partners, Inc.; Dean Cannon, Pres. and CEO, Gray Robinson; Kenneth Kahn, President, LRP Publications, Inc.; Barbara Essenwine, VP/Business manager, GCY, Inc.; Mori Hosseini, Chair and CEO, ICI Homes; Dnaiel Davis, Pres. and CEO, JAX Chamber; and (1 vacant position). Available at <https://www.spaceflorida.gov/wp-content/uploads/2019/10/Space-Florida-Board-of-Directors-Terms-and-Contact-Information-UPDATED-10.09.19.pdf> (Last visited on Jan. 10, 2019.)

- The manner of execution of bonds and coupons and any and all other terms, covenants, and conditions thereof; and
- The establishment of reserve or other funds.

However, the bonds' term cannot exceed 40 years from their respective dates 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

The issuance of revenue bonds 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, from the rates, fees, rentals, tolls, fares, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of Space Florida; or from any source of pledged security.⁸ 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.⁹

Before issuing bonds, Space Florida must 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.¹⁰ In 1991, the legislature modified Chapter 331, F.S., to provide a definition of the term "conduit bonds" and further authorized the Spaceport's Authority¹¹ to issue conduit bonds¹² without Cabinet approval and notice to the Legislature.¹³ This authority came as an exclusion to the 1991 revision to s. 331.303 (21), F.S., that provided, "Until December 31, 1994, bonds, other than conduit bonds, issued under the authority contained in this act shall not exceed a total of \$500 million and must first be approved by a majority of the members of the Governor and Cabinet." In 1999, this language was removed, leaving the requirements for notice to the Legislature and approval by the Governor and Cabinet.¹⁴

Section 331.346, F.S., provides for the validity of bonds and the procedures by which bonds issued by Space Florida are validated.¹⁵ Chapter 75, F.S., also specifies the procedures for bond

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 Section 331.331(2), F.S.

⁹ *Id.*

¹⁰ Section 331.305(20), F.S.

¹¹ The Spaceport Florida Authority was created in 1991. Space Florida is its successor. *See* Ch. 91-265, L.O.F.

¹² 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).

¹³ Ch. 91-265, L.O.F.

¹⁴ *See* s. 73, Ch. 99-385 L.O.F.

¹⁵ Bonds issued by Space Florida are incontestable in the hands of bona fide purchasers or holders for value and may not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof. Prior to the issuance of any bonds, Space Florida must publish a notice at least once in a newspaper or newspapers published or of general circulation in the appropriate counties in the state, stating the date of adoption of the resolution authorizing such obligations, the amount,

validation issued by entities of the state. The bond validation chapter provides for jurisdiction of claims, plaintiffs, notice, appeal and review, as well as commencement of action after validation.

Section 331.334, F.S., provides for the pledging of assessments and other revenues and properties as additional security on bonds. Pursuant to this section, Space Florida may hold an election in the manner provided by law for special districts and pledge its full faith and credit for any of its bonds to ensure the full payment of principal, interest, and any other funds provided for if pledged revenues are insufficient for such payment. Space Florida by resolution of the board may also pledge as additional bond security the revenues from any project of Space Florida, utility service, assessments, and any other sources of revenue or funds, or any combination of the foregoing, and may pledge or mortgage any of the properties, rights, interest, or other assets 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. The board may also provide with respect to any bonds of Space Florida that such bonds are payable, in whole or in part, as to principal amount or interest, or both, out of rates, fees, rentals, tolls, fares, or other charges collected with respect to any of the projects of Space Florida.

Section 331.335, F.S., provides that all pledges of revenues and assessments made pursuant to the provisions of the Space Florida Act are valid and binding from the time the pledges are made. All revenues and assessments pledged and thereafter collected are immediately subject to the lien of the pledges without any physical delivery thereof or further action, and the lien of such pledges are valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against Space Florida, irrespective of whether such parties have notice.

In addition to other powers authorized, Space Florida may, at any time after the issuance of any bonds Space Florida has authorized, borrow money for the purposes for which the bonds are to be issued in anticipation of the receipt of the proceeds of the sale of the bonds and issue bond anticipation notes¹⁶ in a principal amount not to exceed the authorized maximum amount of the bonds issued. The board may in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any assessments levied for the payment of the bonds, but in such event a like amount of the bonds authorized may not be issued.¹⁷

maximum rate of interest, and maturity of such obligations, and the purpose in general terms for which such obligations are to be issued, and further stating that no action or proceeding questioning the validity of such obligations or of the proceedings authorizing the issuance thereof, or of any covenants made therein, must be instituted within 20 days after the first publication of such notice, or the validity of such obligations, proceedings, and covenants shall not be thereafter questioned in any court whatsoever. If no such action or proceeding is so instituted within such 20-day period, then the validity of such obligations, proceedings, and covenants are conclusive, and all persons or parties whatsoever are forever barred from questioning the validity of such obligations, proceedings, or covenants in any court.

¹⁶ 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.

¹⁷ Section 331.336, F.S.

III. Effect of Proposed Changes:

The bill clarifies that as a special district, Space Florida is subject to s. 189.051, F.S., which provides requirements for bond issuance if a referendum is not required. Under that section, 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, which opinion was 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.

The bill revises the term “bonds” to delete reference to any other type of bond other than a revenue bond and expanded to include any other type of debt, including bank loans issued by Space Florida for the purpose of raising financing for its projects. Thus, Space Florida may continue to do short-term borrowing.

Space Florida’s bond issuing powers are revised to conform to the new definition of the term “bonds.” In addition, the provision requiring Space Florida to provide 14 days’ notice to the presiding officers and appropriations chairs of both houses of the Legislature before presenting a bond proposal to the Governor and Cabinet and the procedure requiring a three-fourths of the members of the Governor and Cabinet to approve the bonding proposal if either presiding officer or appropriations chair objects to the bonding proposal within a 14-day notice period is removed.¹⁸

Criteria for the revenue bonds pursuant to which Space Florida is subject are modified to include assessments as an authorized revenue source with which revenue bonds may be secured. The section further clarifies that state appropriations may not be used as a pledged revenue source. Finally, the section is amended to state that the revenue bonds may not be secured by the full faith and credit of Space Florida.¹⁹

¹⁸ See s. 331.305, F.S.; The original bill establishing the Spaceport Florida Authority, provided:

“. . . for the first year of operation, bonds issued under the authority contained in this act shall not exceed a total 210 million and must first be approved by a majority of the members of the Governor and Cabinet. The authority must provide 14 days’ notice to the presiding officers and appropriations chairmen of both houses of the legislature prior to presenting a bond proposal to the governor and Cabinet. If either presiding officer or appropriations chairman object to the bonding proposal within the 14 day notice period the bond issuance may be approved only by a vote of two-thirds of the members of the Governor and Cabinet.” Section 5, Ch. 89-300, L.O.F.

¹⁹ See s. 331.331, F.S.

The section providing for Lien of Pledges is amended to conform to the changes to sources of revenue. Because assessments are included in the sources of revenue, specifically referring to assessments in addition to revenues is no longer necessary.²⁰

The bill reduces to 30 years from 40 years the maximum term for which a bond may be issued.²¹

Section 331.346, F.S., provides criteria by which Space Florida must validate its bonds. The bill authorizes 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.

Because of the changes made to Space Florida's bonding authority in the bill, the additional authority and requirements provided in ss. 331.334, 331.336, and 331.337, F.S., appear to be unnecessary and are therefore repealed. Space Florida still may 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 Article VII, Section 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.

²⁰ See s. 331.335, F.S.

²¹ See s. 331.340, F.S.

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

None.

B. Private Sector Impact:

According to Space Florida:

“As the Canaveral Spaceport transitions from a spaceport dominated by two federal agencies supporting government programs to a spaceport with a growing number of commercial companies supporting commercial aerospace pursuits, bond issuance will be a critical enabler and more useful tool to developing the critical common-use infrastructure (utilities, telecommunications, commodities, road 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.”²²

C. Government Sector Impact:

According to Space Florida:

“Space Florida expects that issuing bonds would become a more viable and effective business development tool, allowing Space Florida 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 Space Florida-issued bonds to invalidation.) A competitive financing marketplace leads to lower cost of capital and better financing terms for Space Florida and the industry it is supporting.”²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill removes from the current statutes the bond-issuance approval process by the Governor and Cabinet and the authority for either legislative presiding officer or appropriations chair to 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 may only issue conduit bonds and bonds on its own behalf, which have no effect on legislative budgetary authority or undermine any governmental oversight. Additionally, the current practice is for the Governor and Cabinet to simply issue a resolution acknowledging Space Florida’s authority to issue conduit bonds in accordance with and in furtherance of Space Florida’s

²² 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.)

²³ *Id.*

statutory purpose.²⁴ As such, with the other bonding requirements remaining, it appears that this process is an unnecessary formality. However, removing these formalities does appear to streamline the bonding process to allow Space Florida to meet its purpose of fostering growth and development of a sustainable and world-leading aerospace industry in the state.

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, 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.)

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.

²⁴ 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.)