

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, Space, and Domestic Security

BILL: SPB 7048

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Space Florida

DATE: April 4, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Proctor</u>	<u>Proctor</u>	_____	MS submitted as Comm. Bill/Fav

I. Summary:

SPB 7048 revises provisions governing Space Florida to increase collaboration regarding spaceport activities, enhance transparency measures regarding spaceport projects, and make several revisions to the Space Florida Board. In part, the bill:

- Creates an independent Space Florida Board separate from the Enterprise Florida, Inc. (EFI) Board, establishes membership and appointment criteria and term lengths, prohibits compensation, provides per diem and travel limits, allows electronic meetings, and provides quorum requirements.
- Requires Space Florida to:
 - Include additional economic data in the Space Florida annual report.
 - Explain certain travel and entertainment expenditures and address recent audit findings.
 - Assess contracts for services that exceed \$50,000 or are for a period of 12 months or longer, by including provisions requiring a service auditor report of their effectiveness.
- Includes Space Florida among the list of economic development programs scheduled to be reviewed and analyzed by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Adds Space Florida as an entity that the Department of Economic Opportunity (DEO) has contract authority over and requires the DEO's annual report to include Space Florida information.
- Requires the Space Florida Board to conduct new member training through the DEO.

The bill does not appear to have a significant fiscal impact on state or local government.

The effective date of the bill is July 1, 2023.

II. Present Situation:

Space Florida

In 2006, the Legislature passed the Space Florida Act,¹ which consolidated Florida's three existing space entities, the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation, into a single entity called Space Florida.² Space Florida is established as an independent special district, 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 the state. Space Florida has all the powers, rights, privileges, and authority as provided under the laws of this state³, and receives state funding through contract with the DEO.⁴

Space Florida acts as Florida's point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.⁵ Space Florida is authorized to 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.⁶

According to Space Florida's 2022 Annual Operations Report, as of July 1, 2022, Space Florida had 85 total projects in development with an estimated value of \$2.4 billion in capital investment, and provided \$4.3 million in funding for 30 research projects, partnerships, and grants.⁷

Powers of Space Florida

In furtherance of its duties, Space Florida is given certain powers, including, but not limited to:⁸

- Using a corporate seal;
- Using patents, copyrights, and trademarks;
- Lending and investing money;
- Acquiring certain properties;
- Executing contracts;
- Issuing revenue bonds;
- Making expenditures for entertainment and travel expenses and business clients, guests, and other authorized persons; and
- Fixing and collecting fees, loan payments, rental payments, and other charges in connection with financing agreements.

¹ Chapter 2006-60, Laws of Fla.

² See ss. 331.301 through 331.371, F.S.

³ Section 331.302, F.S.

⁴ The Department of Economic Opportunity, Space Florida Contract SB23-008, available at <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=400000&ContractId=S0201> (last visited Apr. 3, 2023).

⁵ Section 331.3011, F.S.

⁶ Section 331.305, F.S.

⁷ Space Florida, *Space Florida Annual Report 2022*, available at <https://www.spaceflorida.gov/wp-content/uploads/2023/01/Space-Florida-FY22-Annual-Operating-Report.pdf> (last visited Mar. 29, 2023).

⁸ Section 331.305, F.S.

Duties of Space Florida

In order to implement the Space Florida Act and carry out spaceport operations, Space Florida is given certain duties, including, but not limited to, creating a business plan, entering into agreements and cooperating with other state agencies, and consulting with appropriate federal agencies.⁹

Specifically, Space Florida is required to:

- Enter into agreements with the Department of Education (DOE), the Department of Transportation (DOT), EFI, and CareerSource Florida, Inc.¹⁰
- In cooperation with EFI, develop a plan to retain, expand, attract, and create aerospace industry entities, public or private, which results in the creation of high-value-added businesses and jobs in this state.¹¹
- Develop, in cooperation with EFI, a plan to provide financing assistance to aerospace businesses.¹²
- Carry out its responsibilities for spaceport operations by:¹³
 - Seeking federal support and developing partnerships to renew and upgrade the infrastructure and technologies at the Cape Canaveral Air Force Station, the John F. Kennedy Space Center, and the Eastern Range.
 - Supporting federal efforts to clarify roles and responsibilities of federal agencies in an effort to streamline access for commercial launch users.
 - Pursuing the development of commercial spaceports in the state in partnership with counties or municipalities, the Federal Government, or private entities.
 - Promoting and facilitating launch activity within the state by supporting and assisting commercial launch operators' interactions with federal agencies for launching from Florida.
 - Consulting, as necessary, with the appropriate federal, state, and local authorities, including the National Aeronautics and Space Administration (NASA), Federal Aviation Administration (FAA), Department of Defense (DOD), DOT, Florida National Guard, and industry on establishing and operating spaceport infrastructure and facilities in the state.

Annual Reports

Space Florida is required to provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on its performance with respect to its business plan, financing, spaceport operations, research and development, workforce development, and education. Space Florida is required to submit the report by November 30 for the previous fiscal year. The annual report must include operations information from its annual report of operations.¹⁴

⁹ Section 331.3051, F.S.

¹⁰ Section 331.3051(2), F.S.

¹¹ Section 331.3051(3), F.S.

¹² Section 331.3051(6), F.S.

¹³ Section 331.3051(7), F.S.

¹⁴ Section 331.3051(11), F.S.

Annual Report of Operations

The Space Florida board of directors is required to prepare an annual report of operations as a supplement to the annual report. The report must include, but not be limited to, a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, the auditor's report, a summary of the status of existing and proposed bonding projects, comments from management about the year's business, and prospects for the next year.¹⁵

Transportation and Public Utilities Facilities

Space Florida is authorized to:¹⁶

- Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve transportation facilities appropriate to meet the transportation requirements of Space Florida and activities conducted within spaceport territory;
- Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve electric power plants, transmission lines and related facilities, gas mains and facilities of any nature for the production or distribution of natural gas, transmission lines and related facilities, and plants and facilities for the generation and transmission of power through traditional and new and experimental sources of power and energy;
- Purchase electric power, natural gas, and other sources of power for distribution within any spaceport territory;
- Develop and operate water and sewer systems and waste collection and disposal;¹⁷ and
- Develop and operate new and experimental public utilities, including, but not limited to, centrally distributed heating and air-conditioning facilities and services, closed-circuit television systems, and computer services and facilities, as the board may from time to time determine.

Space Florida Board of Directors

Space Florida is governed by a 13 member¹⁸ independent board of directors (Space Florida Board). The Governor, or the Governor's designee, is a voting member and serves as the chair.¹⁹ The 12 appointed private sector members of the EFI board of directors also serve, by default, on the Space Florida Board and are appointed to four-year terms.²⁰

The duties of the Space Florida Board include:²¹

- Adopting rules and orders to conduct the business of Space Florida, the maintenance of records, and the form of all documents and records of Space Florida.

¹⁵ Section 331.310(2)(e), F.S.

¹⁶ Sections 331.305(12) and (13), F.S.

¹⁷ This must be done consistent with ch. 88-130, Laws of Fla.

¹⁸ Section 331.3081, F.S.

¹⁹ *Id.*

²⁰ Six members are appointed by the Governor, three members are appointed by the President of the Senate, and three members are appointed by the Speaker of the House of Representatives. Section 288.901(5)(a)8., F.S.

²¹ Section 331.310(2), F.S.

- Maintaining an executive office and Space Florida offices in close proximity to the John F. Kennedy Space Center.
- Appointing a president of Space Florida, and determining his or her title, functions, duties, powers, and salary.
- Abiding by all applicable federal labor laws in the construction and day-to-day operations of Space Florida and any spaceport.
- Preparing the annual report of operations as a supplement to its annual report, which is also required by law.

The Space Florida Board is authorized to exercise the following powers:²²

- Enter, and authorize any agent or employee of Space Florida to enter, upon any lands, waters, and premises, upon giving reasonable notice and due process to the land owner, for the purposes of making surveys, soundings, drillings, appraisals, and examinations necessary to perform its duties and functions.
- Execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the Space Florida Board to be necessary or desirable to carry out the purposes given it in statute.
- Establish and create such departments, committees, or other entities as from time to time the Space Florida Board deems necessary or desirable in the performance of any acts or other things necessary to the exercise of the powers provided in statute.
- Provide financial services to support aerospace-related business development within the state. Financial services may include, but are not limited to:
 - Insuring, coinsuring, or originating for sale direct aerospace-related loans.
 - Direct lending.
 - Guaranteeing and collateralizing loans.
 - Creating accounts.
 - Capitalizing, underwriting, leasing, selling, or securing funding for aerospace-related infrastructure.
 - Investing in permissible securities.
 - Organizing financial institutions and international bank syndicates.
 - Acquiring, accepting, or administering grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of Space Florida's business plan. If the Space Florida Board deems a financial services entity is necessary, the Space Florida Board may create, form, or contract with one or more such entities.
- Examine, and authorize any officer or agent of Space Florida to examine, the county tax rolls with respect to the assessed valuation of the real and personal property within any spaceport territory.
- Engage in the planning and implementation of space-related economic and educational development within the state.
- Provide the strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses.

²² Section 331.310(1), F.S.

- Execute intergovernmental agreements and development agreements consistent with prevailing statutory provisions, including, but not limited to, special benefits or tax increment financing initiatives.
- Establish reserve funds for future Space Florida Board operations.
- Adopt rules to carry out the purposes of the Space Florida Act.

Travel and Entertainment Expenses

Notwithstanding the provisions for per diem and travel expenses for public officers, employees, and authorized persons, and the statewide travel management system,²³ Space Florida is required to adopt rules for travel and entertainment expenses that:²⁴

- Make expenditures by advancement or reimbursement, or a combination thereof, to Space Florida officers and employees;
- Reimburse business clients, guests, and authorized persons;²⁵ and
- Make direct payments to third-party vendors.

The travel and entertainment expenses of business clients, guests, and authorized persons must be incurred by Space Florida in connection with the performance of its statutory duties. The travel expenses of state officials and employees must be incurred while accompanying business clients, guests, or authorized persons or when authorized by the Space Florida Board or its designee. The entertainment expenses for Space Florida officials and employees must be incurred while in the physical presence of such business clients, guests, or authorized persons.²⁶

The travel and entertainment rules are subject to approval by the Chief Financial Officer (CFO) before adoption, and are prescribed as follows:²⁷

- Must require the submission of paid receipts, or other proof prescribed by the CFO, with any claim for reimbursement.
- Must require, as a condition for any advancement, an agreement to submit paid receipts or other proof and to refund any unused portion of the advancement within 15 days after the expense is incurred or, if the advancement is made in connection with travel, within 15 days after completion of the travel.
- With respect to an advancement made solely for travel expenses, the rules may allow paid receipts or other proof to be submitted, and any unused portion of the advancement to be refunded, within 30 days after completion of the travel.

An annual report must be made to the Legislature not later than November 30 of each year for the previous fiscal year that concisely summarizes all travel, entertainment, and incidental expenses incurred inside and outside of the U.S.²⁸

²³ Section 112.061, F.S.

²⁴ Section 331.3101, F.S.

²⁵ “Authorized person” is defined in s. 112.061(2)(e), F.S., as a person other than a public officer or employee, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties; called upon by an agency to contribute time and services as consultant or adviser; a candidate for an executive or professional position.

²⁶ Section 331.3101(1), F.S.

²⁷ Section 331.3101(2), F.S.

²⁸ Section 331.3101(3), F.S.

Claims are not required to be sworn to but are required to contain a statement that the expenses were necessary in the performance of official duties of Space Florida and verified by written declaration.²⁹ Untrue or incorrect claims, and fraudulent or false claims, are a second degree misdemeanor, punishable by a term of imprisonment of up to 60 days³⁰ and a \$500 fine.³¹ Whoever receives an advancement or reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.³²

Effective July 1, 2022, through July 1, 2023, Space Florida is required to adhere to certain travel and entertainment restrictions. In addition to the requirements set forth for the annual report summarizing all travel, entertainment, and incidental expenses, the 2022 annual report by Space Florida must also:

- Provide an itemized accounting, by date of travel, of all travel, entertainment, and incidental expenses incurred;
- To the extent such expenses exceed the generally allowable expense limits for per diem and travel expenses of public officers, employees, and authorized persons, provide reasons behind the need to exceed such statutory expense limits;
- Categorize expenses for Space Florida Board members, staff, employees, and business clients. The report must also set forth any expenses authorized by the Space Florida Board or its designee for a guest; and
- Include information related to corrective actions and steps taken by Space Florida to address the findings in Auditor General Report No. 2022-049.³³

Furnishing Facilities and Services within the Spaceport Territory

Space Florida is authorized to construct, develop, create, maintain, and operate its projects within the geographical limits of the spaceport territory. This includes any portions of the spaceport territory located inside the boundaries of any incorporated municipality or other political subdivision.³⁴

Space Florida is authorized to offer, supply, and furnish the facilities and services provided for in the Space Florida Act, and establish and collect fees, rentals, and other charges, within the geographical limits of the spaceport territory and for the use of Space Florida itself.³⁵

Power of Space Florida with Respect to Roads

Within the territorial limits of any spaceport territory, Space Florida is authorized to acquire, through purchase or interagency agreement, or as otherwise provided in law, and construct,

²⁹ Section 331.3101(4), F.S.

³⁰ Section 775.082(4)(b), F.S.

³¹ Section 775.083(1)(e), F.S.

³² Section 331.3101(4), F.S.

³³ Auditor General, *Space Florida Board Duties and Governance and Selected Administrative Activities* Report No. 2022-049 (Nov. 2021) available at https://flauditor.gov/pages/pdf_files/2022-049.pdf (last visited Mar. 29, 2023).

³⁴ Section 331.312, F.S.

³⁵ *Id.*

control, and maintain, roads, connections, and extensions that it deems necessary in accordance with established highway safety standards.³⁶

If a road being addressed by Space Florida is owned by another agency or jurisdiction, Space Florida, before proceeding with the proposed project or work activity, must either coordinate the desired work or successfully execute an interagency agreement with the owning agency or jurisdiction.³⁷

Contracts, Grants, and Contributions

Space Florida is authorized to:³⁸

- Make and enter all contracts and agreements necessary or incidental to the performance of its functions and execution of its powers.
- Contract with, and accept and receive grants or loans of money, material, or property from, any person, private or public as the Space Florida Board determines necessary or desirable to carry out the purposes of the Space Florida Act.
- In connection with any such contract, grant, or loan, stipulate and agree to such covenants, terms, and conditions as the Space Florida Board deems appropriate.

Spaceport Master Plan

Space Florida is required to develop a spaceport master plan for expansion and modernization of space transportation facilities within spaceport territories. The plan must contain recommended projects to meet current and future commercial, national, and state space transportation requirements.³⁹

Space Florida is required to submit the plan to:⁴⁰

- Any appropriate metropolitan planning organization for review of intermodal impacts.
- DOT, and it may be included in DOT's five-year work program of qualifying aerospace discretionary capacity improvement.

The plan must identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the State Transportation Trust Fund.⁴¹

Special Districts

Space Florida is an independent special district, and subject to the provisions of the Uniform Special District Accountability Act, to the extent that provisions of the act do not conflict with the Space Florida Act.⁴² The Uniform Special District Accountability Act sets forth general

³⁶ Section 331.313, F.S.

³⁷ *Id.*

³⁸ Section 331.324, F.S.

³⁹ Section 331.360(3), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Section 331.302, F.S.

provisions for all special districts, addressing creation, operation, financial reporting, taxation, assessments, elections, definitions, compliance with general law, and comprehensive planning.⁴³

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.⁴⁴ Special districts are created by general law,⁴⁵ special act,⁴⁶ local ordinance,⁴⁷ or by rule of the Governor and Cabinet.⁴⁸ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.⁴⁹ Space Florida is an "independent special district," which is a district that is not a dependent special district⁵⁰ and may only be created by legislative authorization as provided in the Uniform Special District Accountability Act.⁵¹

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁵²

Special districts may enter into interlocal agreements with one or more other local governmental units.⁵³ Under these agreements, the special district may exercise jointly with other participating local governments those powers, privileges, or authorities they have in common and each may exercise those same powers, privileges, or authorities separately.⁵⁴

Special District Accountability

The Uniform Special District Accountability Act establishes a Special District Accountability Program administered by the DEO that provides oversight and accountability measures that special districts must follow. Some of the duties of the program include:⁵⁵

- Electronically publishing special district noncompliance status reports from the Department of Management Services, the Department of Financial Service (DFS), the Division of Bond Finance of the State Board of Administration (SBA), the Auditor General, and the Joint Legislative Auditing Committee (JLAC).
- Providing technical advisory assistance to special districts.
- Helping special districts comply with reporting requirements.
- Initiating certain enforcement proceedings for failure to file reports and information.

⁴³ Chapter 189, F.S.

⁴⁴ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

⁴⁵ Section 189.031(3), F.S.

⁴⁶ *Id.*

⁴⁷ Section 189.02(1), F.S.

⁴⁸ Section 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

⁴⁹ *Halifax Hosp. Med. Center, supra* note at 548.

⁵⁰ Section 189.012(3), F.S.

⁵¹ Section 189.011(1), F.S.

⁵² Art. VII, s. 9(a), Fla. Const.

⁵³ Section 163.01(2), (3)(b), F.S.

⁵⁴ Section 163.10(4), F.S.

⁵⁵ Section 189.064, F.S.

The Uniform Special District Accountability Act requires special districts to comply with many of the same accountability standards as those of counties and municipalities and state government. Examples include:⁵⁶

- Filing an Annual Financial Report with the DFS disclosing the district's revenues, expenditures, long-term debt, and other financial information.
- Filing a Financial Audit Report, performed by an independent Certified Public Accountant, with the Florida Auditor General for review (most but not all special districts).
- Filing information with the SBA concerning advance notice of bond sales and new bond issues.
- Certifying to the state compliance with Truth-in-Millage requirements (if establishing a property tax).
- Complying with ethics laws, including financial disclosures by governing board members and certain employees.
- Conducting district business within the Government-in-the-Sunshine laws, including specific public meeting requirements.

Special District Oversight

Special districts may be reviewed for general oversight purposes as follows, for example each special district created by special act may be reviewed by the Legislature using the process provided in s. 189.0651, F.S.⁵⁷ Certain state agencies are responsible for monitoring special districts and collecting, reviewing, interpreting, and summarizing financial information for the public, the Legislature, and other officials.

Therefore, each special district must submit the following to various state and local agencies and the Legislature, as applicable:⁵⁸

- The Annual Financial Report;
- The Financial Audit Report;
- Bond financing related reports;
- Retirement system reports;
- Public facilities reports;
- Designation of registered office and agent;
- Regular Public Meeting Schedule;
- Charters (creation document), as amended; and
- Boundary maps, as amended.

⁵⁶ Department of Economic Opportunity, Special District Accountability and Oversight, <https://floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/special-district-accountability-and-oversight> (last visited Mar. 29, 2023).

⁵⁷ Section 189.068, F.S.

⁵⁸ *Id.*

Education for New District Board Members

The DEO is authorized to provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district governing bodies. The education programs must include, but are not limited to, courses on:⁵⁹

- The code of ethics for public officers and employees;
- Public meetings and public records requirements;
- Public finance; and
- Parliamentary procedure.

Currently, members of special districts are not considered “Elected Municipal Officers” subject to the annual ethics training requirement found in s. 112.3142, F.S.⁶⁰

Special District Meetings, Public Records and Public Notice Requirements

Special districts, along with counties, municipalities, and other governmental agencies, must comply with Florida’s public meetings requirements, also known as the “Sunshine Law,”⁶¹ public records requirements in Florida’s public records law,⁶² and the public notice requirements in the Florida laws that govern legal and official advertisements.⁶³

In addition, special districts must comply with specific meeting requirements in the Uniform Special District Accountability Act, and certain special districts may need to comply with meeting requirements in other laws. Meeting requirements require that a district:⁶⁴

- Quarterly, semiannually, or annually, prepare a schedule of regular meetings that includes the date, time, and location of each meeting.
- File the schedule with each local governing authority in which the special district has jurisdiction.
- Publish the schedule in the county or counties in which the special district has jurisdiction.
- For any meeting other than a regular meeting or any recessed and reconvened meeting, advertise in the county or counties in which the special district has jurisdiction the day, time, place, and purpose of such meeting at least 7 days before the meeting.
- In the event of an emergency, provide reasonable notice in the county or counties in which the special district has jurisdiction, hold the emergency meeting, and subsequently ratify the emergency meeting. An annual budget may not be approved at an emergency meeting.

⁵⁹ Section 189.063(1), F.S.

⁶⁰ Dep’t of Economic Opportunity, Florida Special District Handbook, (Oct. 2022), https://www.floridajobs.org/docs/default-source/2015-community-development/community-assistance/sdap/florida-special-district-handbook.pdf?sfvrsn=152e57b0_2 (last visited Mar. 29, 2023).

⁶¹ Chapter 286, F.S.

⁶² Chapter 119, F.S.

⁶³ Chapter 50, F.S.

⁶⁴ Section 189.015, F.S.

Confidentiality of Records

Current law makes certain information held by an economic development agency, including Space Florida, exempt or confidential and exempt⁶⁵ from state public records requirements.⁶⁶ This includes information regarding plans to locate or relocate a business, trade secrets, proprietary confidential business information, sales tax registration numbers, and information held pursuant to an economic incentive program or loan program. Some exemptions are temporary and some permanent.

Information concerning a corporation's plans to relocate or expand any of its business activities in the state is confidential and exempt, as follows:⁶⁷

- For 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed.
- An economic development agency may extend the period of confidentiality for up to 12 months upon written request by the entity that originally requested confidentiality and upon a finding by the economic development agency that the entity is still actively considering locating, relocating, or expanding its business activities in this state. The request must be received before the expiration of the original period.
- If a final project order for a signed economic development agreement is issued, then the information remains confidential and exempt for 180 days after the final project order is issued, until a date specified in the final project order, or until the information is otherwise disclosed, whichever occurs first. However, the 180 day timeframe may not extend beyond the original or extended period.

Proprietary confidential business information is confidential and exempt until the information becomes publicly available or is no longer treated by the proprietor as confidential.⁶⁸

Specific sales, employee wage, and tax information associated with the administration of an economic incentive program for qualified businesses is confidential and exempt for the duration of the incentive agreement or upon termination of the agreement.⁶⁹ The following information is protected:

- The percentage of the business's sales occurring outside the state and for businesses applying for the qualified defense contractor and space flight business tax refund program under s. 288.1045, F.S., the percentage of the business's gross receipts derived from DOD contracts during the 5 years immediately preceding the date the business's application is submitted.

⁶⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (Aug. 1, 1985).

⁶⁶ See s. 288.075, F.S.

⁶⁷ Section 288.075(2), F.S.

⁶⁸ Section 288.075(4), F.S.

⁶⁹ Section 288.075(6), F.S.

- An individual employee's personal identifying information that is held as evidence of the achievement or nonachievement of the wage requirements of the tax refund, tax credit, or incentive agreement programs or of the job creation requirements of the programs.
- The amount of:
 - Taxes on sales, use, and other transactions;
 - Corporate income taxes;
 - Intangible personal property taxes;
 - Insurance premium taxes;
 - Excise taxes;
 - Ad valorem taxes; or
 - State communications services taxes.
- However, an economic development agency may disclose in the annual incentives report required under s. 288.907, F.S., the aggregate amount of each of these taxes paid by all businesses participating in each economic incentive program.

The following information held by an economic development agency relating to a specific business participating in an economic incentive program is no longer confidential or exempt 180 days after a final project order for an economic incentive agreement is issued, until a date specified in the final project order, or if the information is otherwise disclosed, whichever occurs first:⁷⁰

- The name of the qualified business.
- The total number of jobs the business committed to create or retain.
- The total number of jobs created or retained by the business.
- Notwithstanding s. 213.053(2), the amount of tax refunds, tax credits, or incentives awarded to, claimed by, or, if applicable, refunded to the state by the business.
- The anticipated total annual wages of employees the business committed to hire or retain.

For a business applying for the qualified defense contractor and space flight business tax refund program under s. 288.1045, F.S., which is based on obtaining a new DOD contract, the total number of jobs expected and the amount of tax refunds claimed may not be released until the new DOD contract is awarded.⁷¹

Trade secrets, federal employer identification numbers, reemployment assistance account numbers, and Florida sales tax registration numbers are permanently exempt from public records.⁷²

Information held by an economic development agency pursuant to its administration of a state or federally funded small business loan program is exempt from inspection by the public. Disclosure of such information is authorized in an aggregated and anonymized format.⁷³

⁷⁰ Section 288.075(6)(b)1., F.S.

⁷¹ Section 288.075(6)(b)2., F.S.

⁷² Sections 288.075(3) and (5), F.S.

⁷³ Section 288.075(7), F.S.

An employee of an economic development agency who violates these provisions commits a second degree misdemeanor, punishable by a maximum penalty of 60 days in jail and a \$500 fine.⁷⁴

Space Florida Auditor General Report No. 2022-049

In 2021, the State of Florida Auditor General released findings of an operational audit of Space Florida that focused on cooperative agreements, board duties and governance, and selected administrative activities.⁷⁵ The audit disclosed the following findings:

- Space Florida Board committee meetings were not always held in accordance with committee charter requirements.
- Certain Space Florida entertainment and travel expenses did not appear to be clearly necessary or reasonable to the performance of Space Florida's statutory duties or commensurate with entertainment and travel expenses authorized by State law.
- Space Florida did not comply with certain requirements of State law regarding public deposits.
- Space Florida contracted with a service organization to provide information technology (IT) services. However, Space Florida did not take steps to reasonably ensure that service organization controls relevant to the IT services performed on behalf of Space Florida were suitably designed and operating effectively.
- Space Florida policies and procedures did not adequately promote the retention of records related to the sanitization and disposition of surplus computer hard drives.
- Security controls over mobile device utilization need improvement to ensure the confidentiality, integrity, and availability of Space Florida data and IT resources.
- Space Florida records did not evidence that network user access privileges were timely disabled for former employees.

The audit also recommended ways to address each finding. Space Florida explained each finding and a corrective action or improvement plan for each finding.⁷⁶

In 2022, the General Appropriations Act implementing bill further addressed these findings by amending travel and entertainment provisions in the Space Florida Act to limit expenditures on entertainment and lodging. These limitations require Space Florida to include additional information in its annual report relating to itemized expenses identified for corrective action in the audit. These requirements are temporary and set to expire July 1, 2023.

The DEO Annual Report

The DEO is tasked with assisting the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.⁷⁷ The DEO must also ensure that the state's goals and policies relating to economic

⁷⁴ Sections 775.082 and 775.083, F.S.

⁷⁵ Auditor General, *Space Florida Board Duties and Governance and Selected Administrative Activities*, Report No. 2022-049, (Nov. 2021), https://flauditor.gov/pages/pdf_files/2022-049.pdf (last visited Mar. 29, 2023).

⁷⁶ *Id.*

⁷⁷ Section 20.60(4), F.S.

development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.⁷⁸

The Secretary of the DEO, who is appointed by the Governor and confirmed by the Senate, is required to serve as manager for the state with respect to contracts with EFI and all applicable direct-support organizations. Such contracts may be for multiyear terms and must include specific performance measures for each year.⁷⁹

The DEO, with assistance from EFI is required to, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of the business climate and economic development in the state. The report must:⁸⁰

- Include the identification of problems and a prioritized list of recommendations; and
- Incorporate annual reports of other programs, including:
 - Information provided by the Department of Revenue.
 - Information provided by enterprise zone development agencies and an analysis of the activities and accomplishments of each enterprise zone.
 - The Economic Gardening Business Loan Pilot Program and the Economic Gardening Technical Assistance Pilot Program.
 - A detailed report of the performance of the Black Business Loan Program and a cumulative summary of the quarterly report data.
 - The Rural Economic Development Initiative.
 - The Florida Unique Abilities Partner Program.
 - A detailed report of the performance of the Florida Development Finance Corporation and a summary of the corporation's annual report.

Economic Development Programs Evaluation

As directed by the Legislature, the OPPAGA and the EDR are required to complete detailed analyses of state economic development programs (analysis) beginning on a certain date and every 3 years thereafter. For each program, OPPAGA evaluates effectiveness and value to the state's taxpayers, while EDR evaluates and determines the economic benefits and return-on-investment of each program.⁸¹

Currently, the analysis includes more than 18 economic development programs, including, but not limited to:

- VISIT Florida and its programs.⁸²
- The Florida Sports Foundation and related programs.⁸³
- The tax exemption for semiconductor, defense, or space technology sales.⁸⁴

⁷⁸ OPPAGA, *Program Summary: Department of Economic Opportunity*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=6101> (last visited Mar. 29, 2021).

⁷⁹ Section 20.60(9), F.S.

⁸⁰ Section 20.60(10), F.S.

⁸¹ Section 288.0001, F.S.

⁸² Sections 288.122, 288.1226, 288.12265, and 288.124, F.S.

⁸³ Sections 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171, F.S.

⁸⁴ Section 212.08(5)(j), F.S.

- The Military Base Protection Program.⁸⁵

III. Effect of Proposed Changes:

The bill amends s. 20.60, F.S., to add Space Florida to the list of entities and laws over which the DEO has contract authority, and requires the DEO's annual report to incorporate annual report information provided by Space Florida under s. 331.3051, F.S., and an analysis of the activities and accomplishments of Space Florida.

The bill amends s. 288.0001, F.S., to include Space Florida, the Florida Space Business Incentives Act (corporate income tax credits for spaceflight projects), and the research and development tax credit among the list of economic development programs scheduled to be reviewed and analyzed by EDR and OPPAGA, beginning January 1, 2026, and every 3 years thereafter.

The bill amends s. 331.303, F.S., to expand the definition of "aerospace" to include:

- Technology and industry related to the design, manufacture, maintenance, repair, and operation of aircraft or any other device intended to be used or designed for flight or reentry.
- Aircraft facilities or components thereof, and related equipment, systems, facilities, simulators, programs, and related activities.
- Aviation technologies in air-based, land-based, space-based, and sea-based platforms for commercial, civil, and defense purposes.

The bill amends s. 331.303, F.S., to expand the definition of "landing area" to include areas within spaceport territory that are designated by an appropriate body (other than Space Florida) that are intended for controlling, assisting, flying, navigating, piloting, maintenance, or construction of any aerospace technology or craft.

The bill amends s. 331.3051, F.S., to require Space Florida to:

- Enter into an agreement with the DEO to implement the Space Florida Act.
- Work with the DEO to submit by August 15 of each fiscal year, a proposed operating budget for Space Florida which includes amounts to be expended on incentives, advertising, events, other operating capital outlay, and salaries and benefits for each employee to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- Develop a plan in cooperation with the DEO to provide financing assistance to aerospace businesses.
- Partner with the Board of Governors to foster technological advancement and economic development for spaceport activities by strengthening higher education programs and supporting aerospace activities.
- Partner with the Division of Workforce Services of the DEO, CareerSource, and local workforce development boards to support initiatives that address the high technology skills and staff resources needed to better promote the state's efforts in becoming the nation's leader in aerospace and space exploration.

⁸⁵ Section 288.980, F.S.

- Partner with the Metropolitan Planning Organization Advisory Council to coordinate and specify how aerospace planning and programming will be part of the state's cooperative transportation planning process.

The bill amends s. 331.3051, F.S., to also require Space Florida, before October 1 of each year, to submit to the DEO, for inclusion in the DEO's annual report, a complete and detailed written report setting forth:

- Its operations and accomplishments during the fiscal year.
- Accomplishments and progress concerning the implementation of the spaceport master plan and other measurable goals, and any updates to the plan and goals.
- Data on the economic impact of the aerospace industry in the state during the previous year, including, but not limited to:
 - The amount and sources of capital investment;
 - The number of jobs created and retained; and
 - Annualized average wages, listed by geographic areas within the state as specified by the board.
- Any other information required by the DEO.

The bill amends s. 331.3051, F.S., to also require Space Florida to provide a copy of the special district public facilities report required in s. 189.08, F.S., to Space Florida's property owners, project owners, and users.

The bill amends s. 331.3081, F.S., to revise the Space Florida Board by separating it from the EFI board, creating an independent Space Florida Board that includes the Governor, who serves ex officio, or who may appoint a designee to serve, as the chair and a voting member of the Space Florida Board, and the following appointed members:

- The Secretary of Transportation or his or her designee.
- Four members appointed by the Governor.
- One member appointed by the President of the Senate.
- One member appointed by the President of the Senate from the members of the Senate, who shall serve ex officio as a nonvoting member of the board.
- One member appointed by the Speaker of the House of Representatives.
- One member appointed by the Speaker of the House of Representatives from the members of the House of Representatives, who shall serve ex officio as a nonvoting member of the board.
- A representative of each of the following entities, appointed by the Governor, who shall serve ex officio as a nonvoting member of the board:
 - An airport authority with the capability for horizontal launches, such as the Jacksonville Aviation Authority or Titusville-Cocoa Airport Authority.
 - Port district or port authority, as defined in s. 315.02(2), F.S., operations, or management.
 - A spaceport territory, as defined in s. 331.304, F.S., operations, or management.

The bill also specifies that all members of the board who are appointed by the Governor are subject to confirmation by the Senate. In addition, when making appointments to the board, with the exception of the ex officio nonvoting member from the Senate and House of Representatives, the appointing official must:

- Select an individual to serve who reflects the state's interests in the aerospace sector and represents the intent, duties, and purpose of Space Florida; or
- Select an individual who has at least 5 years of experience in at least one of the following areas:
 - The aerospace industry, including technology, manufacturing, or supply chain fields, and human space flight. This member may not be currently employed by an entity that is under contract with Space Florida.
 - Bond financing.
 - Academic study of aerospace, aviation, or a relevant science.
 - Management or operation of aircraft facilities, fixed base operations, or commercial airport operations.
 - Aviation industry technology, manufacturing, or supply chain fields.
 - Management or finance of technology or manufacturing startup business or international business.
- Ensure that the appointee is a resident of this state or has a business enterprise in this state.

Appointed members will serve 4-year terms, except that to provide for staggered terms, the Governor shall initially appoint two members to serve 2-year terms, two members to serve 3-year terms, and one member to serve a 4-year term. Initial appointees of the President of the Senate and the Speaker of the House of Representatives will serve 4-year terms. All subsequent appointments shall be for 4-year terms.

The bill also specifies the following requirements related to the Space Florida Board membership:

- Initial appointments must be made by October 1, 2023.
- Terms end September 30.
- Members appointed to the board of directors of Space Florida as of the effective date of the bill may continue to serve on the board until October 1, 2023.
- Any member is eligible for reappointment, except that a member may not serve more than two, 4-year terms.
- Vacancies must be filled for the remainder of the unexpired term in the same manner as the original appointment.
- Appointed members may be removed by the appointing official for cause.
- Absence from three consecutive meetings is cause for removal.
- Space Florida Board members serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to requirements for per diem and travel expenses of public officers and employees. Expenses must be paid out of the funds of Space Florida.
- Each member of the board of directors who is not otherwise required to file financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, F.S., must file disclosure of financial interests pursuant to s. 112.3145, F.S.
- Each member of the board of directors is subject to the standards of conduct in ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2), F.S. For purposes of applying these sections to activities of the members of the board of directors, they are considered public officers or employees and Space Florida is considered their employing agency. The exemption set forth in s. 112.313(12), F.S., for doing business with one's agency

and conflicting employment or contractual relationship, for advisory boards applies to the members of the Space Florida board of directors.

- The Space Florida Board must meet at least quarterly, upon the call of the chairperson, or at the request of a majority of the membership.
- A majority of the total number of current voting members constitutes a quorum.
- Official action requires a majority vote of the members present at any meeting at which a quorum is present.
- Meetings may be held via teleconference or other electronic means.
- Open meeting and public records requirements of chapter 119 and s. 286.011, F.S., apply to Space Florida and its board of directors.
- The Space Florida Board must conduct education for newly appointed Space Florida Board members as provided by the DEO in accordance with the Uniform Special District Accountability Act.
- Space Florida may not endorse candidates for elected public office or contribute moneys to their campaigns.

The bill also provides that each officer or employee of Space Florida who is not otherwise required to file financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, F.S., must file disclosure of financial interests pursuant to s. 112.3145, F.S. The officers and employees of Space Florida are subject to the standards of conduct in ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2), F.S. For purposes of applying these sections to activities of the officers and employees, they are considered public officers or employees and Space Florida is considered their employing agency.

The bill amends s. 331.310, F.S., to require the Space Florida Board to establish appropriate security controls, including access privileges and other measures to protect the confidentiality, integrity, and availability of data and resources of Space Florida.

The bill amends s. 331.3101, F.S., to make the following travel and entertainment provisions permanent by removing the July 1, 2023, sunset date:

- Limits Space Florida's expenditures on entertainment and lodging; and
- Requires Space Florida to submit additional information in its annual report relating to itemized expenses.

The bill also extends the July 1, 2023, sunset date to July 1, 2024, for the requirement that information related to corrective actions taken by Space Florida that address the findings in Auditor General Report No. 2022-049 be included in the Space Florida annual report.

The bill amends s. 331.312, F.S., to revise Space Florida's authority to construct, develop, create, and maintain facilities and services within spaceport territory to:

- Additionally allow Space Florida to own, acquire, equip, extend, improve, and reconstruct its projects within the geographical limits of the spaceport territory;
- Allow Space Florida to maintain these facilities; and
- Specify that this authority includes spaceport territory located inside the boundaries of any political subdivision.

The bill amends s. 331.313, F.S., to revise Space Florida's power with respect to roads as follows:

- Requires Space Florida to consult with the agency or jurisdiction that owns the road before proceeding with a proposed project or work activity.
- Requires Space Florida to advise DOT of any determination Space Florida makes to construct or maintain a road or bridge within its territory.
- Requires Space Florida to provide DOT with complete copies of all documents, agreements, resolutions, contracts, and instruments relating thereto; and, if necessary, request DOT to conduct construction or maintenance work, including the acquisition of necessary rights-of-way, planning, surveying, and actual construction of the project.
- Requires Space Florida to transfer to DOT any funds provided for construction or maintenance.
- Authorizes DOT to proceed with construction or maintenance and to use funds for the work in the same manner that DOT is authorized to use the funds otherwise provided by law for use in construction of roads and bridges.

The bill amends s. 331.324, F.S., to revise provisions related to Space Florida contracts, for services that exceed \$50,000 or is for a period of 12 months or longer. Such contracts must include a service auditor report which provides periodic assessments of the effectiveness of the executed contract document, the organization, and any other providers relevant to the contract, to ensure that the service organization maintains adequate internal controls to comply with the terms and conditions of the contract, to validate and receive goods and services, and to determine whether the contracted service is cost-effective and meets Space Florida's requirements and goals.

The service auditor's final assessment report must be submitted to Space Florida's board of directors and the Secretary of the DEO, or his or her designee, and within 30 days after receipt of the final assessment report, the board must send a written explanation or rebuttal concerning any findings by the service auditor which require corrective action, including action required to preclude any recurrence of the findings.

The bill specifies that the provisions of this act shall control if the provisions conflict with provisions of another act.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not impose, authorize to impose, or raise a state tax or fee. Thus, the requirements of Art. III, s. 19 of the State Constitution are not applicable.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provisions in the bill may allow Space Florida to operate more transparently and efficiently internally and with its partners and surrounding communities, which may result in a positive fiscal impact to the private sector.

C. Government Sector Impact:

The provisions in the bill may allow Space Florida to operate more transparently and efficiently internally and with its partners and surrounding communities, which may result in a positive fiscal impact to state and local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, 288.0001, 331.303, 331.305, 331.3051, 331.3081, 331.310, 331.3101, 331.312, 331.313, and 331.324.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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