

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 143 Tax-exempt Private Activity Bonds

**SPONSOR(S):** Transportation & Modals Subcommittee, Sirois

**TIED BILLS:**           **IDEN./SIM. BILLS:** SM 370

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	16 Y, 0 N, As CS	Hinshelwood	Hinshelwood
2) Ways & Means Committee	23 Y, 0 N	Rexford	Aldridge
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

Private activity bonds (PABs) are issued by state and local governments for the purpose of financing projects for a private, non-government user where the projects have a public or common utility. A PAB that is considered a *qualified* PAB is tax-exempt under the Internal Revenue Code (IRC), meaning that the interest earned on the qualified PAB is excluded from a person's calculation of gross income for federal income tax purposes. Because interest paid to bondholders on these obligations is not includable in their gross income for federal income tax purposes, bondholders are willing to accept a lower interest rate than they would accept if the interest was taxable. Qualified PABs not only benefit private entities but the public as well, due to increased infrastructure spending.

Included on the list of qualified PABs are "exempt facility bonds," which are bonds issued for facilities such as airports, docks and wharves, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, and qualified highway or surface freight transfer facilities. In other words, these facilities qualify for tax-exempt financing under the IRC. Spaceports are not currently a type of facility for which a qualified (i.e., tax-exempt) PAB may be issued.

The memorial provides historical information on the state's support for space transportation and related transportation facilities, such as spaceports. The memorial explains the importance of adding spaceports as a type of facility for which associated private activity bonds are tax-exempt under the IRC.

The memorial urges the United States Congress to add spaceports as a qualified tax-exempt category of private activity bonds. The memorial further directs the Secretary of State to dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial has no fiscal impact on the state, local governments, or the private sector.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Private activity bonds (PABs) are issued by state and local governments for the purpose of financing projects for a private, non-government user where the projects have a public or common utility.<sup>1</sup> A PAB that is considered a *qualified* PAB is tax-exempt under the Internal Revenue Code (IRC),<sup>2</sup> meaning that the interest earned on the qualified PAB is excluded from a person's calculation of gross income for federal income tax purposes.<sup>3</sup> Because interest paid to bondholders on these obligations is not includable in their gross income for federal income tax purposes, bondholders are willing to accept a lower interest rate than they would accept if the interest was taxable.<sup>4</sup> Qualified PABs not only benefit private entities but the public as well, due to increased infrastructure spending.<sup>5</sup>

Included on the list of qualified PABs are "exempt facility bonds", which are bonds issued for the following types of facilities:<sup>6</sup>

- Airports,
- Docks and wharves,
- Mass commuting facilities,
- Facilities for the furnishing of water,
- Sewage facilities,
- Solid waste disposal facilities,
- Qualified residential rental projects,
- Facilities for the local furnishing of electric energy or gas,
- Local district heating or cooling facilities,
- Qualified hazardous waste facilities,
- High-speed intercity rail facilities,
- Environmental enhancements of hydroelectric generating facilities,
- Qualified public educational facilities,
- Qualified green building and sustainable design projects,
- Qualified highway or surface freight transfer facilities,
- Qualified broadband projects, or
- Qualified carbon dioxide capture facilities.

In other words, the facilities listed above qualify for tax-exempt financing under the IRC. Spaceports are not currently a type of facility for which a qualified (i.e., tax-exempt) PAB may be issued.

#### Effect of the Memorial

The memorial provides historical information on the state's support for space transportation and related transportation facilities, such as spaceports. The memorial explains the importance of adding spaceports as a type of facility for which associated private activity bonds are tax-exempt under the IRC.

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<sup>1</sup> MunicipalBonds.com, *Understanding Private Activity Bonds*, <https://www.municipalbonds.com/education/understanding-private-activity-bonds/> (last visited Dec. 4, 2023).

<sup>2</sup> Title 26 of the United States Code.

<sup>3</sup> 26 U.S.C. § 103(a)&(b)(1).

<sup>4</sup> Internal Revenue Service, *Publication 4078 (Rev. 9-2019): Tax-Exempt Private Activity Bonds*, p. 1, <https://www.irs.gov/pub/irs-pdf/p4078.pdf> (last visited Dec. 4, 2023).

<sup>5</sup> MunicipalBonds.com, *supra* note 1.

<sup>6</sup> 26 U.S.C. §§ 141(e)(1)(a) and 142(a).

of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

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**B. SECTION DIRECTORY:**

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The memorial neither authorizes nor requires executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On December 7, 2023, the Transportation & Modals Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment clarifies the memorial's message that spaceports should qualify as a type of facility for which associated private activity bonds are tax-exempt under the Internal Revenue Code.

This analysis is drafted to the committee substitute as approved by the Transportation & Modals Subcommittee.