

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 717 Space Florida Financing
SPONSOR(S): Commerce Committee, Sirois
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1070

FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 717 passed the House on February 26, 2020, and subsequently passed the Senate on March 12, 2020.

Established by the Legislature in 2006, Space Florida was created to promote aerospace business development by facilitating business and infrastructure financing, spaceport operations, research and development, workforce development and innovative education programs. Space Florida is an independent special district which covers the entire state.

Current law authorizes Space Florida to issue bonds and other obligations to pay for projects, facilities, services, and other activities, including the retirement or refunding of existing bonds and obligations.

The bill amends or repeals a number of financing provisions within the Space Florida Act (Part II, ch. 331, F.S.). Specifically, the bill clarifies certain definitions, specifies that revenue bonds issued by Space Florida are not pledges of the full faith and credit of Space Florida and may not be secured by state appropriations, reduces the maximum length to maturity for bonds, and allows Space Florida to validate its bonds pursuant to ch. 75, F.S.

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

The bill was approved by the Governor on June 27, 2020, ch. 2020-105, L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Space Florida

Space Florida was established by the Legislature in 2006 to consolidate Florida's three existing space entities, namely the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation, into a single organization.¹ Space Florida was created to promote aerospace business development by facilitating business and infrastructure financing, spaceport operations, research and development, workforce development and innovative education programs.² Space Florida acts as the single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.³ 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.⁴

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.⁵ The Governor serves ex officio, or may appoint a designee to serve as the chair and a voting member of the board.

Space Florida is an independent special district and a subdivision of the state. The boundary and services area for the Space Florida special district covers the entire state. Space Florida is subject to the provisions of the Uniform Special District Accountability Act, to the extent that the provisions of that act do not conflict with the Space Florida Act.⁶

Special Districts

In 1989, the Legislature passed the Uniform Special District Accountability Act.⁷ This Act sets forth the general provisions for all special districts, addressing such provisions as the creation, operation, financial reporting, taxation, assessments, elections, definitions, compliance with general law provisions, and comprehensive planning of special districts. Like municipalities and counties, special districts generally do not pay sales tax on goods and services and may be able to finance with tax-exempt bonds issued at reduced interest rates.

Generally, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;

¹ SPACE FLORIDA, *Open Government*, <https://www.spaceflorida.gov/about/open-government/> (last visited Jan. 9, 2020).

² Section 331.302, F.S.

³ Section 331.3011, F.S.

⁴ Section 331.305, F.S.

⁵ Section 331.3081., F.S.

⁶ Sections 331.301–331.371, F.S.

⁷ Chapter 189, F.S.

- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

Debt Financing and Space Florida

Current law authorizes Space Florida to issue revenue bonds, assessment bonds, or any other bonds or obligations authorized by law, and to provide for the retirement or refunding of any bonds or obligations of Space Florida. Space Florida is allowed to pay for the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project, including payloads and space flight hardware, equipment for research, development, and educational activities, and to provide for any facility, service or other activity of Space Florida.⁸

Space Florida's 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 expended;
- 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;
- 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.⁹

Revenue bonds may be secured by the rates, fees, rentals, tolls, fares, or other charges to be collected from the users of any project, from any revenue-producing undertaking or activity of Space Florida, or from any source of pledged security.¹⁰ Revenue bonds do not constitute an indebtedness of Space Florida unless they are additionally secured by the full faith and credit of Space Florida.¹¹

⁸ Section 331.305(20), F.S.

⁹ Section 331.340, F.S.

¹⁰ Section 331.331, F.S.

¹¹ Section 331.331(2), F.S.

Space Florida may also issue refunding bonds, bond anticipation notes,¹² obtain loans, and issue debt to pay for costs and expenses.¹³ Space Florida is authorized to pledge its full faith and credit as additional security for the payment of any bonds that it issues.¹⁴

Space Florida must provide 14 days' notice to the presiding officers and appropriations chairs of both houses of the Legislature prior to 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.¹⁵ In 1991, the legislature modified Chapter 331, F.S., to provide a definition of the term "conduit bonds" and further authorized the Spaceport's Authority¹⁶ to issue conduit bonds¹⁷ without Cabinet approval and notice to the Legislature.¹⁸ 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.¹⁹

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. 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

¹² Section 331.336, F.S.

¹³ Section 331.337, F.S.

¹⁴ Section 331.334, F.S.

¹⁵ Section 331.305(20), F.S.

¹⁶ The Spaceport Florida Authority was created in 1991. Space Florida is its successor. See Ch. 91-265, L.O.F.

¹⁷ 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).

¹⁸ Chapter 91-265, L.O.F.

¹⁹ Section 73, ch. 99-385 L.O.F.

anticipation of the receipt of the proceeds of the sale of the bonds and issue bond anticipation notes²⁰ 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.²¹

Effect of the Bill

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 definition of “bonds” to delete reference to any other type of bond other than a revenue bond and expands the definition 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.²²

Section 331.331(2), is amended 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.²³

²⁰ 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.

²¹ Section 331.336, F.S.

²² Section 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.

²³ Section 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.²⁴

The bill reduces to 30 years from 40 years the maximum term for which a bond may be issued.²⁵

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.

The additional bonding authority and requirements provided in ss. 331.334, 331.336, and 331.337, F.S., are 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.

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:

The bill may result in a positive direct economic impact for businesses that are involved in activities financed by Space Florida.

D. FISCAL COMMENTS:

None.

²⁴ Section 331.335, F.S.

²⁵ Section 331.340, F.S.