

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7041 PCB RRS 23-01 Space Florida

**SPONSOR(S):** Commerce Committee, Regulatory Reform & Economic Development Subcommittee, Sirois

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N	Thompson	Anstead
1) Commerce Committee	17 Y, 0 N, As CS	Thompson	Hamon

### SUMMARY ANALYSIS

Established by the Legislature in 2006, Space Florida was created to promote and foster the growth and development of a sustainable and world-leading aerospace industry in this state. Space Florida is an independent special district and subject to the provisions of the Uniform Special District Accountability Act, which governs such issues as operations, financial reporting, taxation, assessments, elections, compliance with general law, and comprehensive planning. Space Florida officials and employees are subject to public notice and ethics requirements for officials and employees with few exceptions.

Space Florida is governed by a 13 member independent board of directors (Board), consisting of the 12 private sector members of the Enterprise Florida, Inc. (EFI), board of directors, who are appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, plus the Governor or Governor's designee, who is a voting member and serves as the chair.

The bill revises provisions governing Space Florida to increase collaboration with public and private stakeholders regarding spaceport activities, enhance transparency measures regarding spaceport projects, and makes several revisions to the Board. In part, the bill:

- Separates the Board from the EFI board, establishes membership and appointment criteria, term lengths, prohibits compensation, provides per diem and travel limits, allows electronic meetings, and provides quorum requirements.
- Requires Space Florida to:
  - Solicit input on Space Florida plans and activities from the aerospace industry, private sector spaceport territory stakeholders, each entity that owns or has ownership interest in a facility within spaceport territory, and other political subdivisions within spaceport territory.
  - Include additional economic data in the Space Florida annual report to the Governor and Legislature.
  - Explain certain travel and entertainment expenditures and address recent audit findings.
  - Assess and report on contracts with service organizations.
- 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 DEO's annual report to include Space Florida information.
- Requires the Board to conduct new member training using DEO's board member training program.

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.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### **Space Florida**

In 2006, the Legislature passed the Space Florida Act,<sup>1</sup> 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.<sup>2</sup> 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 state.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup>

##### **Powers of Space Florida**

In furtherance of its duties, Space Florida is given certain powers, including, but not limited to:<sup>7</sup>

- 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.

##### **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.<sup>8</sup>

Specifically, Space Florida is required to:

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<sup>1</sup> Ch. 2006-60, Laws of Fla.

<sup>2</sup> See ss. 331.301 through 331.371, F.S.

<sup>3</sup> S. 331.302, F.S.

<sup>4</sup> S. 331.3011, F.S.

<sup>5</sup> S. 331.305, F.S.

<sup>6</sup> Space Florida, Space Florida Annual Report 2022, <https://www.spaceflorida.gov/wp-content/uploads/2023/01/Space-Florida-FY22-Annual-Operating-Report.pdf> (last visited Feb. 27, 2023).

<sup>7</sup> S. 331.305, F.S.

<sup>8</sup> S. 331.3051, F.S.

- Enter into agreements with the Department of Education (DOE), the Department of Transportation (DOT), Enterprise Florida, Inc. (EFI), and CareerSource Florida, Inc. (CSF).<sup>9</sup>
- 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.<sup>10</sup>
- Develop, in cooperation with EFI, a plan to provide financing assistance to aerospace businesses.<sup>11</sup>
- Carry out its responsibilities for spaceport operations by:<sup>12</sup>
  - 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.<sup>13</sup>

## 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.<sup>14</sup>

## Transportation and Public Utilities Facilities

Space Florida is authorized to:<sup>15</sup>

- 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

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<sup>9</sup> S. 331.3051(2), F.S.

<sup>10</sup> S. 331.3051(3), F.S.

<sup>11</sup> S. 331.3051(6), F.S.

<sup>12</sup> S. 331.3051(7), F.S.

<sup>13</sup> S. 331.3051(11), F.S.

<sup>14</sup> S. 331.310(2)(e), F.S.

<sup>15</sup> S. 331.305(12) and (13), F.S.

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;<sup>16</sup> and
- Develop and operate such 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 member<sup>17</sup> independent board of directors (Space Florida Board). The Governor, or the Governor's designee, is a voting member and serves as the chair.<sup>18</sup> 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.<sup>19</sup>

The duties of the Space Florida Board include:<sup>20</sup>

- 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.
- 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:<sup>21</sup>

- 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.

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<sup>16</sup> This must be done consistent with ch. 88-130, Laws of Fla.

<sup>17</sup> 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. S. 288.901(5)(a)7., F.S.

<sup>18</sup> S. 331.3081, F.S.

<sup>19</sup> S. 288.901(5)(a)8., F.S.

<sup>20</sup> S. 331.310(2), F.S.

<sup>21</sup> S. 331.310(1), F.S.

- 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.
- 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,<sup>22</sup> Space Florida is required to adopt rules for travel and entertainment expenses that:<sup>23</sup>

- Make expenditures by advancement or reimbursement, or a combination thereof, to Space Florida officers and employees;
- Reimburse business clients, guests, and authorized persons;<sup>24</sup> 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.<sup>25</sup>

The travel and entertainment rules are subject to approval by the Chief Financial Officer (CFO) before adoption, and are prescribed as follows:<sup>26</sup>

- 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.

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<sup>22</sup> S. 112.061, F.S.

<sup>23</sup> S. 331.3101, F.S.

<sup>24</sup> “Authorized persons” are 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.

<sup>25</sup> S. 331.3101(1), F.S.

<sup>26</sup> S. 331.3101(2), F.S.

An annual report must be made to the Legislature not later than November 30 of each year for the previous fiscal year that consists of a synopsis concisely summarizing all travel, entertainment, and incidental expenses incurred inside and outside of the U.S.<sup>27</sup>

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.<sup>28</sup> Untrue or incorrect claims, and fraudulent or false claims, are a second degree misdemeanor, punishable by a term of imprisonment of up to 60 days<sup>29</sup> and a \$500 fine.<sup>30</sup> 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.<sup>31</sup>

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.<sup>32</sup>

### **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.<sup>33</sup>

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.<sup>34</sup>

### **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, to construct, control, and maintain, roads, connections and extensions that it deems necessary in accordance with established highway safety standards.<sup>35</sup>

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 coordinate the desired work with the owning agency or jurisdiction or successfully execute an interagency agreement with the owning agency or jurisdiction.<sup>36</sup>

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<sup>27</sup> S. 331.3101(3), F.S.

<sup>28</sup> S. 331.3101(4), F.S.

<sup>29</sup> S. 775.082(4)(b), F.S.

<sup>30</sup> S. 775.083(1)(e), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> State of Florida Auditor General, *SPACE FLORIDA Board Duties and Governance and Selected Administrative Activities*, [https://flauditor.gov/pages/pdf\\_files/2022-049.pdf](https://flauditor.gov/pages/pdf_files/2022-049.pdf) (last visited Mar. 1, 2023).

<sup>33</sup> S. 331.312, F.S.

<sup>34</sup> *Id.*

<sup>35</sup> S. 331.313, F.S.

<sup>36</sup> *Id.*

## Contracts, Grants and Contributions

Space Florida is authorized to:<sup>37</sup>

- 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.<sup>38</sup>

Space Florida is required to submit the plan to:<sup>39</sup>

- Any appropriate metropolitan planning organization for review of intermodal impacts.
- DOT, and it may be included within 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.<sup>40</sup>

## 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 the provisions of that act do not conflict with the Space Florida Act.<sup>41</sup> The Uniform Special District Accountability Act sets forth the general provisions for all special districts, addressing such issues as creation, operation, financial reporting, taxation, assessments, elections, definitions, compliance with general law, and comprehensive planning.<sup>42</sup>

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>43</sup> Special districts are created by general law,<sup>44</sup> special act,<sup>45</sup> local ordinance,<sup>46</sup> or by rule of the Governor and Cabinet.<sup>47</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.<sup>48</sup> Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>49</sup>

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<sup>37</sup> S. 331.324, F.S.

<sup>38</sup> S. 331.360(3), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> S. 331.302, F.S.

<sup>42</sup> Ch. 189, F.S.

<sup>43</sup> See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

<sup>44</sup> S. 189.031(3), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> S. 189.02(1), F.S.

<sup>47</sup> S. 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>48</sup> *Halifax Hosp. Med. Center, supra* at 548.

<sup>49</sup> *Local Gov't Formation Manual* at p. 58, available at

<https://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2023&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf> (last visited Jan. 25, 2023).

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of governing body of a single county or municipality.<sup>50</sup> An “**independent special district**” is any district that is not a dependent special district<sup>51</sup> and may only be created by legislative authorization as provided in the Uniform Special District Accountability Act.<sup>52</sup>

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 for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.<sup>53</sup>

Special districts may enter into interlocal agreements with one or more other local governmental units.<sup>54</sup> Under such an agreement, the special district may exercise jointly with the other participating local governments those powers, privileges, or authorities which they have in common and each may exercise separately.<sup>55</sup>

### **Special District Charter**

The charter of a newly-created district must state whether it is dependent or independent.<sup>56</sup> Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.<sup>57</sup>

Specifically, the charter creating an independent special district must contain the following:<sup>58</sup>

- 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;
- A method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosures, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- A 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.

### **Special District Accountability**

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<sup>50</sup> S. 189.012(2), F.S.

<sup>51</sup> S. 189.012(3), F.S.

<sup>52</sup> S. 189.011(1), F.S.

<sup>53</sup> Art. VII, s. 9(a), Fla. Const.

<sup>54</sup> S. 163.01(2), (3)(b), F.S.

<sup>55</sup> S. 163.10(4), F.S.

<sup>56</sup> S. 189.031(5), F.S.

<sup>57</sup> S. 189.031(3), F.S.

<sup>58</sup> S. 189.031, F.S.



The Uniform Special District Accountability Act establishes a Special District Accountability Program administered by the Department of Economic Opportunity (DEO) that provides certain oversight and accountability measures that special districts must follow. Some of the duties of the program include:<sup>59</sup>

- Electronically publishing special district noncompliance status reports from the Department of Management Services (DMS), the Department of Financial Service (DFS)s, the Division of Bond Finance of the State Board of Administration (SBA), the Auditor General, and the Legislative Auditing Committee.
- Maintaining the official list of special districts.
- Publishing and updating of a “Florida Special District Handbook.”
- Coordinating and communicating among state agencies regarding special districts.
- Providing technical advisory assistance to special districts.
- Providing assistance to local general-purpose governments and state agencies in collecting delinquent reports or information.
- Helping special districts comply with reporting requirements.
- Declaring special districts inactive when directed by the Joint Legislative Auditing Committee (JLAC) or required by the Uniform Special District Accountability Act.
- Initiating certain enforcement proceedings for failure to file reports and information.

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 of these standards include:<sup>60</sup>

- Filing an Annual Financial Report with 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:<sup>61</sup>

- Each special district created by special act may be reviewed by the Legislature using the process provided in s. 189.0651, F.S.
- Each special district created by local ordinance or resolution may be reviewed by the local general-purpose government that enacted the ordinance or resolution using the process provided in s. 189.0652, F.S.
- Each dependent special district not created by special act may be reviewed by the local general-purpose government upon which it is dependent.
- All special districts created or established by rule of the Governor and Cabinet may be reviewed as directed by the Governor and Cabinet.
- All other special districts may be reviewed as directed by the President of the Senate and the Speaker of the House of Representatives.

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.

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<sup>59</sup> S. 189.064, F.S.

<sup>60</sup> 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. 1, 2023).

<sup>61</sup> S. 189.068, F.S.

Therefore, each special district must submit the following reports and filings to various state and local agencies and the Legislature, as applicable:<sup>62</sup>

- 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.

### **Failure to File Reports or Information**

Depending on the issue, when special districts fail to comply with a requirement, state and local agencies, as well as citizens, can take action. For example:<sup>63</sup>

- Citizens can file ethics complaints with the Florida Commission on Ethics.
- The appropriate oversight entity, depending on how the special district was created, may conduct a general oversight review process (applies to most, but not all, special districts).
- The Governor may suspend or remove a special district governing body member under certain circumstances.
- The entity that created the special district can amend, merge, or dissolve the special district.
- The state attorney for the area can investigate and prosecute district officials who violate Government-in-the-Sunshine laws.
- JLAC can send state auditors to a district if something warrants such action.
- JLAC and/or DMS can request DEO to file a petition in the Leon County circuit court to compel compliance when special districts fail to file certain financial reports with the state.
- JLAC, at the direction of the President of the Senate and the Speaker of the House of Representatives, may convene a public hearing on the issue of noncompliance concerning any special district created by special act that fails to file certain financial information with the state.
- The chair of a county or municipality may convene a public hearing on the issue of noncompliance concerning any special district it created that fails to file certain financial information with the state.
- DEO can declare special districts inactive under certain circumstances.

### **Education for New District Board Members**

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:<sup>64</sup>

- 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.<sup>65</sup>

### **Special District Meetings, Public Records and Public Notice Requirements**

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> S. 189.063(1), F.S.

<sup>65</sup> Department 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](https://www.floridajobs.org/docs/default-source/2015-community-development/community-assistance/sdap/florida-special-district-handbook.pdf?sfvrsn=152e57b0_2) (last visited Mar. 1, 2023).

Special districts, along with counties, municipalities, and other governmental agencies, must comply with Florida's public meetings requirements, also known as the "Sunshine Law,"<sup>66</sup> public records requirements in Florida's public records law,<sup>67</sup> and the public notice requirements in the Florida laws that govern legal and official advertisements.<sup>68</sup>

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 under the act require that a district:<sup>69</sup>

- 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 seven 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. Do not approve the annual budget at an emergency meeting.

### Special District Ethics Laws and Disclosures

Florida's Code of Ethics was created to help prevent conflicts between public duty and private interests, and ensure that public sector employees and officers will not abuse their public positions in order to obtain a disproportionate benefit or misuse their government office for private gain.<sup>70</sup> All special district local officers and special district employees must comply with Florida's ethics laws.<sup>71</sup>

The Code of Ethics defines a "local officer" in part to include any appointed member of an independent special district or other political subdivision of the state.<sup>72</sup>

The following public officers and employees of a special district must file ethics disclosures:<sup>73</sup>

- A person elected to a special district's governing body.
- A person appointed to complete an unexpired term.
- A person appointed to a special district's governing body.
- A person seeking nomination or election to a special district's governing body.
- A special district's chief administrative employee.
- A fire chief of a fire control special district.
- A special district purchasing agent making purchases more than \$35,000.

Each January, the Florida Commission on Ethics (Commission) receives updates from all counties, municipalities, and special districts regarding who must file a Statement of Financial Interests. The Commission then provides a list of those who must file this form to all county supervisors of elections. All special district local officers and specified employees must file this form. They may also need to file additional disclosures, depending upon their position, businesses, or interests.<sup>74</sup>

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<sup>66</sup> Ch. 286, F.S.

<sup>67</sup> Ch. 119, F.S.

<sup>68</sup> Ch. 50, F.S.

<sup>69</sup> S. 189.015, F.S.

<sup>70</sup> Ch. 112, Part III, F.S., and Article II, Section 8, Fla. Const.

<sup>71</sup> Department 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](https://www.floridajobs.org/docs/default-source/2015-community-development/community-assistance/sdap/florida-special-district-handbook.pdf?sfvrsn=152e57b0_2) (last visited Mar. 1, 2023).

<sup>72</sup> S. 112.3145(1)(a), F.S.

<sup>73</sup> S. 112.3144, F.S.

<sup>74</sup> *Id.*

Any person who does not file this form is subject to automatic fines of \$25 for each late day, up to a cap of \$1,500. Modeled after the automatic fine system in place for campaign finance reports, the Commission can hear appeals and has the power to waive fines under limited circumstances.<sup>75</sup>

Any person who fails to file their annual disclosure is subject to automatic complaint proceedings to determine if the failure to file was willful. If the Commission determines that the person willfully failed to file their disclosure form, the Commission will enter an order recommending that the officer or employee be removed from office or employment.<sup>76</sup>

Special district local officers and employees are prohibited from:<sup>77</sup>

- Doing business with their special district.
- Entering into a conflicting employment or contractual relationship with any other special district local officer, employee, their spouse and/or their children.

Certain limited exemptions apply to these prohibitions, such as the following:<sup>78</sup>

- The business is awarded under a system of sealed competitive bidding.
- The special district local officer has exerted no influence on bid negotiations or specifications.
- Disclosure is made, before or at the time of the submission of the bid, of the special district local officer's or employee's or his or her spouse's or child's interest and the nature of the intended business.

A special district local officer must abstain from voting on the following measures:<sup>79</sup>

- One that inures to his or her special private gain or loss.
- One that inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained.
- One that could result in special private gain or loss to a relative.
- One that could result in special private gain or loss to a business associate.

## Gifts

Gifts valued at more than \$100 from vendors, lobbyists, or political committees, are prohibited. Special district local officers and specified employees may not solicit any gift, including food or beverage, from the following:<sup>80</sup>

- A political committee.
- A lobbyist who has lobbied that special district local officer's or specified employee's special district within the past 12 months.
- A partner, firm, employer, or principal of a lobbyist.
- A vendor.

A special district local officer or employee may accept a gift valued between \$25 and \$100 from a lobbyist. However, the person giving the gift must report the gift to the Commission and notify the special district local officer that they will disclose the gift as required.<sup>81</sup>

A special district local officer or employee may not directly or indirectly accept a gift worth more than \$100 from a lobbyist. However, they may accept it on behalf of the special district. Then, the special district local officer or specified employee must promptly transfer the gift to the special district.<sup>82</sup>

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<sup>75</sup> S. 112.3144(8)(f), F.S.

<sup>76</sup> S. 112.3144(9), F.S...

<sup>77</sup> S. 112.313, F.S...

<sup>78</sup> *Id.*

<sup>79</sup> S. 112.3143, F.S.

<sup>80</sup> S. 112.3148, F.S.

<sup>81</sup> Department 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](https://www.floridajobs.org/docs/default-source/2015-community-development/community-assistance/sdap/florida-special-district-handbook.pdf?sfvrsn=152e57b0_2) (last visited Mar. 1, 2023).

<sup>82</sup> *Id.*

## Penalties for Code of Ethics Violations

Non-criminal penalties for code of ethics violations for special district officers and employees include:<sup>83</sup>

- Impeachment.
- Removal or suspension from office or employment.
- Public censure, reprimand, demotion, or salary reduction.
- A civil penalty up to \$10,000.
- Restitution of pecuniary benefits they received.

Non-criminal penalties for candidates seeking election to a special district's governing body:<sup>84</sup>

- Disqualification from being on the ballot.
- Public censure or reprimand.
- A civil penalty up to \$10,000.

Non-criminal penalties for former special district local officers and employees include:<sup>85</sup>

- Public censure and reprimand.
- A civil penalty up to \$10,000.
- Restitution of pecuniary benefits they received.

Special district officers or employees convicted in a court of law of a specified felony offense involving their public office or employment is subject to forfeiture of retirement benefits. Examples of such offenses include the following felonies: embezzlement or theft of public funds, bribery, impeachable offenses, threatening a public servant and defrauding the public or the special district.<sup>86</sup>

Violations of the gift law and/or honorarium provisions by a lobbyist may result in:<sup>87</sup>

- A fine up to \$5,000.
- A two-year ban from lobbying, or employing someone to lobby, before the agency of the person to whom the gift or honorarium was given.

## Confidentiality of Records

Current law contains a number of provisions that make certain information held by an economic development agency, including Space Florida, exempt or confidential and exempt<sup>88</sup> from public records requirements.<sup>89</sup> 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 of the exemptions are temporary and some are 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:<sup>90</sup>

- For 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed;

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<sup>83</sup> S. 112.317, F.S.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> S. 112.3148, F.S.

<sup>88</sup> 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 (August 1, 1985).

<sup>89</sup> See s. 288.075, F.S.

<sup>90</sup> S. 288.075(2), F.S.

- 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 such entity is still actively considering locating, relocating, or expanding its business activities in this state. Such a request must be received prior to 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.<sup>91</sup>

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.<sup>92</sup> The following information is protected:

- The percentage of the business's sales occurring outside this 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 Department of Defense contracts during the five years immediately preceding the date the business's application is submitted.
- 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 such 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:<sup>93</sup>

- 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 Department of Defense contract, the total number of jobs expected and the amount of tax refunds claimed may not be released until the new Department of Defense contract is awarded.<sup>94</sup>

<sup>91</sup> S. 288.075(4), F.S.

<sup>92</sup> Ss. 288.075(6), F.S.

<sup>93</sup> S. 288.075(6)(b)1., F.S.

<sup>94</sup> S. 288.075(6)(b)2., F.S.

Trade secrets, federal employer identification numbers, reemployment assistance account numbers, and Florida sales tax registration numbers are permanently exempt from public records.<sup>95</sup>

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.<sup>96</sup>

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.<sup>97</sup>

## **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.<sup>98</sup> 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 the 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 provided recommendations on ways to address each of these findings. Space Florida responded to the audit by submitting to the Auditor General written statements explaining each of the findings and a plan for correcting or improving the findings.<sup>99</sup>

In 2022, the General Appropriations Act implementing bill amended the travel and entertainment provisions in the Space Florida Act to limit Space Florida's expenditures on entertainment and lodging, and require Space Florida to submit additional information in its annual report relating to itemized expenses and information related to corrective actions taken by Space Florida to address the findings in the audit. These requirements are temporary and are set to expire July 1, 2023.

## **DEO Annual Report**

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.<sup>100</sup> DEO must also ensure that the state's goals and policies relating to economic development, workforce development,

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<sup>95</sup> Ss. 288.075(3) and (5), F.S.

<sup>96</sup> S. 288.075(7), F.S.

<sup>97</sup> Ss. 775.082 and 775.083, F.S.

<sup>98</sup> State of Florida Auditor General, *SPACE FLORIDA Board Duties and Governance and Selected Administrative Activities*, [https://flauditor.gov/pages/pdf\\_files/2022-049.pdf](https://flauditor.gov/pages/pdf_files/2022-049.pdf) (last visited Mar. 1, 2023).

<sup>99</sup> *Id.*

<sup>100</sup> S. 20.60(4), F.S.

community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.<sup>101</sup>

The Secretary of DEO is required to serve as the 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.<sup>102</sup>

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:<sup>103</sup>

- 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 (DOR).
  - 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 Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of Economic and Demographic Research (EDR) are required to complete detailed analyses of state economic development programs (analysis) beginning on a certain date and every three years thereafter. OPPAGA evaluates each program for its effectiveness and value to the state's taxpayers. EDR evaluates and determines the economic benefits and return-on-investment of each program.<sup>104</sup>

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

- The Quick Action Closing Fund.<sup>105</sup>
- Enterprise Zone Program incentives.<sup>106</sup>
- The New Markets Development Program.<sup>107</sup>
- VISIT Florida and its programs.<sup>108</sup>
- The Florida Sports Foundation and related programs.<sup>109</sup>
- The qualified defense contractor and space flight business tax refund program.<sup>110</sup>
- The tax exemption for semiconductor, defense, or space technology sales.<sup>111</sup>
- The Military Base Protection Program.<sup>112</sup>

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<sup>101</sup> OPPAGA, *Program Summary: Department of Economic Opportunity*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=6101> (last visited Mar. 11, 2021).

<sup>102</sup> S. 20.60(9), F.S.

<sup>103</sup> S. 20.60(10), F.S.

<sup>104</sup> S. 288.0001, F.S.

<sup>105</sup> S. 288.1088, F.S.

<sup>106</sup> Ss. 212.08(5) and (15), 212.096, 220.181, and 220.182, F.S.

<sup>107</sup> Ss. 288.991-288.9922, F.S.

<sup>108</sup> Ss. 288.122, 288.1226, 288.12265, and 288.124, F.S.

<sup>109</sup> Ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171, F.S.

<sup>110</sup> S. 288.1045, F.S.

<sup>111</sup> S. 212.08(5)(j), F.S.

<sup>112</sup> S. 288.980, F.S.



## **Effect of Proposed Changes**

The bill revises provisions governing Space Florida to increase collaboration with public and private stakeholders regarding spaceport activities, enhance transparency measures regarding spaceport projects, and separate the Space Florida Board from EFI.

The bill includes Space Florida and the Space Florida Act to the list of entities and laws over which DEO has contract authority, and requires 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 includes Space Florida among the list of economic development programs scheduled to be reviewed and analyzed by EDR and OPPAGA, beginning January 1, 2024, and every three years thereafter.

The bill expands the definition of "aerospace" to include:

- Technology intended to be used or designed for flight or re-entry.
- Aircraft facilities.
- Space-based platforms.

The bill expands the definition of "landing area" to include:

- Areas within spaceport territory that are designated by an appropriate body.
- Areas within the spaceport territory that are intended for controlling, assisting, flying, navigating, piloting, maintenance, or construction of any aerospace vehicle or craft.

The bill requires Space Florida to work with DEO, instead of EFI, as follows:

- Enter into agreement with DEO to implement the Space Florida Act.
- Cooperate with DEO to 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.
- Develop a plan with DEO to provide financing assistance to aerospace businesses.

The bill requires Space Florida to conduct the following collaborative measures:

- Solicit input regularly on Space Florida plans and activities from the aerospace industry, private sector spaceport territory stakeholders, each entity that owns or has ownership interest in a facility within spaceport territory, and other political subdivisions within spaceport territory.
- 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 (DWS), CSF, 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.
- 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 also requires Space Florida, before October 1 of each year, to submit to DEO, for inclusion in 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 such plan and measurable goals.
- Any other information required by DEO.

The bill requires Space Florida's annual report to include certain information, including data on the economic impact of the aerospace industry in the state during the previous year, and:

- The amount and sources of capital investment.
- The number of jobs created and retained.
- Annualized average wages, listed by geographic areas within the state as specified by the Space Florida Board.

The bill revises the Space Florida Board as follows:

- Separates the Space Florida Board entirely from the EFI board.
- Creates 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.
  - Five members appointed by the Governor who must reflect the state's interests in the aerospace sector and represent intent, duties, and purpose of Space Florida, or have five years of experience in at least one of the following areas:
    - The aerospace industry, but not currently employed by an entity that is under contract with Space Florida.
    - Bond financing.
    - Academic experience in aerospace, aviation, or a relevant science.
    - An aircraft facilities manager, a fixed-based operator, or a commercial airport operator.
  - One member appointed by the President of the Senate, who has at least five years of experience as provided above.
  - One member appointed by the Speaker of the House who has at least five years of experience as provided above.
  - A representative of each of the following entities, who will serve as an ex officio, nonvoting member of the Space Florida Board, appointed by the Governor:
    - Jacksonville Aviation Authority.
    - Titusville-Cocoa Airport Authority.
    - An employee or official of a port district or port authority as defined in 315.02(2), F.S.

Appointed members are to serve four year staggered 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 on September 30.
- 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. Such expenses must be paid out of the funds of Space Florida.
- 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.

- The Space Florida Board must conduct education for newly appointed Space Florida Board members as provided by DEO in accordance with the Uniform Special District Accountability Act.
- Space Florida may not endorse any candidate for elected public office or contribute moneys to the campaign of any such candidate.

The bill makes 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 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 revises 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 such facilities; and
- Specify that this authority includes spaceport territory located inside the boundaries of any political subdivision.

The bill revises Space Florida's power with respect to roads as follows:

- Before proceeding with a proposed project or work activity that is owned by another agency or jurisdiction, Space Florida is required to consult with the agency or jurisdiction that owns the road.
- 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 such 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 such construction or maintenance.
- Authorizes DOT to proceed with such construction or maintenance and to use such funds for such 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 requires Space Florida and the Space Florida Board to take the following steps to ensure that contracted service organizations that provide services to Space Florida are operating effectively:

- Requires Space Florida, after execution of a contract with a service organization, to make and obtain independent and periodic assessments of the effectiveness of the executed contract document, the service organization, and any other providers relevant to the contract, to ensure that adequate internal controls are in place for complying with the terms and conditions of the contract, for the validation and receipt of goods and services, and to determine that the contracted service is cost effective and meets Space Florida's requirements and goals.
- Requires Space Florida to submit a final assessment report to the Space Florida Board and the Secretary of DEO or his or her designee.
- Requires the Space Florida Board, within 30 days after receipt of the final assessment report, to submit to DEO a written statement of explanation or rebuttal concerning findings requiring corrective action, including corrective action to be taken to preclude a recurrence.
- Requires Space Florida, beginning October 1, 2023, and every three years thereafter, to complete a risk-based compliance assessment of all internal contracts executed by Space Florida for the preceding three fiscal years, which must include steps to reasonably ensure that

contracted service organizations' controls relevant to services provided are suitably designed and operating effectively.

- The assessment findings must be submitted to the Space Florida Board, the Secretary of DEO or his or her designee, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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

**B. SECTION DIRECTORY:**

Section 1: amends s. 20.60, F.S., relating to DEO; creation; powers and duties.

Section 2: amends s. 288.0001, F.S., relating to economic development programs evaluation.

Section 3: amends s. 331.303, F.S., making changes to definitions.

Section 4: amends s. 331.305, F.S., revising the powers of Space Florida.

Section 5: amends s. 331.3051, F.S., relating to the duties of Space Florida.

Section 6: amends s. 331.3081, F.S., revising the Space Florida Board.

Section 7: amends s. 331.310, F.S., revising the powers and duties of the Space Florida Board.

Section 8: amends s. 331.3101, F.S., revising provisions related to Space Florida travel and entertainment expenses.

Section 9: amends s. 331.312, F.S., revising provisions related to furnishing facilities and services within the spaceport territory.

Section 10: amends s. 331.313, F.S., revising provisions related to the power of Space Florida with respect to roads.

Section 11: amends s. 331.324, F.S., revising provisions related to Space Florida contracts, grants, and contributions.

Section 12: provides the provisions of the act shall control to the extent of certain conflicts.

Section 13: provides an effective date of July 1, 2023.

**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:

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, and the private sector.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current law gives the Space Florida Board sufficient rulemaking authority to carry out the purposes of the Space Florida Act.<sup>113</sup>

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 10, 2023, the Commerce Committee adopted four amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Provides more flexibility among the choices for the Governor's appointments.
- Revises the board membership to include the representative of a port authority as an ex officio, non-voting member.
- Removes language requiring Space Florida to solicit input from NASA, the DOD, and other political subdivisions that own facilities within spaceport territory as Space Florida develops the spaceport master plan.
- Removes language that subjects proposed Space Florida contracts with a total cost of \$10 million or more to the notice and review procedures of the legislative budget commission.