

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SM 370

INTRODUCER: Senator Wright

SUBJECT: Spaceports

DATE: December 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SM 370 is a memorial to Congress urging the members of Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on the state or local governments.

II. Present Situation:

Spaceports

A spaceport is defined as any area of land or water, or any manmade object or facility located therein, developed by Space Florida, which area is intended for public use or for the launching, takeoff, and landing of spacecraft and aircraft, and includes any appurtenant areas which are used or intended for public use, for spaceport buildings, or for other spaceport facilities, spaceport projects, or rights-of-way.¹ Spaceport territory includes certain real property located in:

- Brevard County which is included in the 1998 boundaries of Patrick Space Force Base, Cape Canaveral Space Force Station and John F. Kennedy Space Center;
- Santa Rosa, Okaloosa, Gulf, and Walton Counties which is included in the 1997 boundaries of Eglin Air Force Base;
- Duval County which is included within the boundaries of Cecil Airport and Cecil Commerce Center;
- Brevard County which is included within the boundaries of Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park; and

¹ Section 331.303(17), F.S.

- The state which is a spaceport licensed by the Federal Aviation Administration, as designated by the Space Florida Board of Directors.²

In 1999, space was designated as the fifth mode of transportation in Florida and spaceports as the associated modal facilities. The Florida Department of Transportation (FDOT) was given significant responsibilities related to aerospace³ and spaceports in Florida.⁴ Space Florida acts as Florida's point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.⁵ The FDOT and Space Florida work together to plan and facilitate space transportation services on spaceport properties throughout the state.⁶ Additionally, the FDOT, in consultation with Space Florida, is authorized to fund up to 100 percent of a project at strategic spaceport launch support facilities if the following criteria have been met:

- Important access and on-spaceport and commercial launch facility capacity improvements are provided;
- Capital improvements that strategically position the state to maximize opportunities in international trade are achieved;
- Goals of an integrated intermodal transportation system for Florida are achieved; and
- Feasibility and availability of matching funds through federal, local, or private partners are demonstrated.⁷

The FDOT's Spaceport Improvement Program (SIP) is designed to stimulate private sector investment and commercial spaceport development. The program provides funding for projects that:

- Improve aerospace transportation facilities;
- Encourage cooperation and integration of airports and spaceports; and
- Facilitate and promote inter-agency efforts to improve space transportation capacity and efficiency.⁸

The SIP partners with commercial space launch and spacecraft operators for initiatives such as expanded commercial heavy lift; launch vehicle manufacturing in Florida; high volume Florida satellite production; upgraded small launch capability to meet multiple space user needs; crewed launches to the International Space Station; refurbish processing facilities; and support launch of

² Section 331.304, F.S.

³ Section 331.303(1), F.S., defines aerospace as the technology and industry related to the design, manufacture, maintenance, repair, and operation of aircraft or any other device intended to be used or designed for flight or reentry, including rockets, missiles, spacecraft, satellites, space vehicles, space stations, space and aircraft facilities or components thereof, and related equipment, systems, facilities, simulators, programs, and activities, including, but not limited to, the application of aerospace and aviation technologies in air-based, land-based, space-based, and sea-based platforms for commercial, civil, and defense purposes.

⁴ Chapter 99-256, Laws of Fla. *See also* s. 331.360(1), F.S.

⁵ Section 331.3011, F.S.

⁶ Section 331.360, F.S.

⁷ Section 331.371, F.S.

⁸ Florida Department of Transportation, *Spaceport Improvement Program, 2023-2024*, p. iv, available at <https://www.spaceflorida.gov/wp-content/uploads/2023/10/SF0080.02DEL-FDOT-Spaceport-Handbook-Update-2023-230426.pdf> (last visited Dec. 4, 2023).

new rockets for human transportation in space.⁹ Partners who have requested SIP funding include SpaceX, United Launch Alliance, Boeing, Blue Origin, OneWeb, Firefly, and others.¹⁰

In performance year 2022, Space Florida recruited, retained, and expanded 15 space and aerospace related companies and nearly 6,000 jobs, as well as provided \$4.3 million in funding for 30 research projects, partnerships, and grants. Additionally, 85 projects within Space Florida's three stages of project development had an estimated value of \$2.4 billion in capital investment and are located in 26 counties. Lastly, 989 payloads went into orbit, there were 39 supported launches, and 384 tons of total payload mass went into orbit.¹¹

Private Activity Bonds

State and local government bonds are classified under the federal tax code as either governmental bonds or private activity bonds.¹² The tax code defines "private business" use as use (directly or indirectly) in a trade or business carried on by any person other than a governmental official.¹³ The interest on state and local governmental bonds is generally exempt from taxation; however, the interest on private activity bonds is not tax exempt.¹⁴ A state or local bond is a private activity bond if, as of the bond issue date or at any time while the bonds are outstanding, the bond issue exceeds the limits set forth in either:

- The private business tests in 26 U.S.C. §141(b), which consist of the private use test private security and payment test; or
- The private loan financing test in 26 U.S.C. §141(c).¹⁵

If the bond passes both conditions, the bonds are taxable and carry a higher interest rate. However, the bond could still qualify for tax-exempt status if the bond is identified in the tax code as a qualified private activity.¹⁶ Currently there are 30 qualified activities including airports, docks and wharves.¹⁷

The federal government controls the amount of private activity bonds that are permitted to be issued in each state. Part VI of ch. 159, F.S., establishes statewide procedures for allocating Florida's share of private activity bonds. Such allocation is referred to as the allocation of state volume limitation pursuant to s. 159.804, F.S. The Division of Bond Finance of the State Board of Administration is responsible for annually determining the amount of the private activity

⁹ *Id* at p. 4.

¹⁰ *Id* at p. 6.

¹¹ Space Florida, *2022 Annual Report*, p. 9, available at <https://www.spaceflorida.gov/wp-content/uploads/2023/01/Space-Florida-FY22-Annual-Operating-Report.pdf> (last visited Dec. 4, 2023).

¹² Congressional Research Service, *Private Activity Bonds: An Introduction* (January 31, 2022), p. 1, available at <https://crsreports.congress.gov/product/pdf/RL/RL31457> (last visited Dec. 4, 2023).

¹³ 26 U.S.C. §141-3.

¹⁴ 26 U.S.C. § 103.

¹⁵ Internal Revenue Service, *Tax-Exempt Private Activity Bonds* (2019), p. 2, available at <https://www.irs.gov/pub/irs-pdf/p4078.pdf> (last visited Dec. 4, 2023).

¹⁶ *Supra* note 12 at 3

¹⁷ 26 U.S.C. § 142(a)(1) and (2). *See Supra* note 12 at 11 for the full list of qualified private activities.

bonds permitted for statewide allocation under the 1986 Internal Revenue Code, as amended. For 2023, the total private activity bond allocation for Florida is \$2.6 billion.¹⁸

In Florida, access to private activity bonds is provided by the Florida Development Finance Corporation (FDFC),¹⁹ with the power to function within the corporate limits of any public agency with which it has entered into an interlocal agreement.²⁰ The FDFC issues the bonds, which are purchased by a bank or investor(s). The proceeds from the sale are then loaned to finance capital projects. The interest on the bonds received by the investor is exempt from federal income tax.²¹

III. Effect of Proposed Changes:

The memorial urges Congress to add spaceports as a qualified tax-exempt category of private activity bonds.

Copies of the memorial will be sent by Florida's Secretary of State 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 power. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The memorial does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁸ State of Florida, Division of Bond Finance, *2023 PAB Allocation with Regional Map*, available at <https://www.sbafla.com/bond/Portals/0/Content/2023%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf?ver=2022-12-28-130416-030> (last visited Dec. 4, 2023).

¹⁹ See s. 288.9604, F.S. for the creation of the Corporation.

²⁰ Section 288.9605(1), F.S.

²¹ Florida Development Finance Corporation, *Private Activity Bonds*, available at <https://www.fdfcbonds.com/pab> (last visited Dec. 4, 2023).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.