Workforce Development & Tourism Subcommittee

Wednesday, January 15, 2020
3:30 PM – 5:30 PM
12 HOB

Meeting Packet

Jose Oliva
Speaker

Rene Plasencia
Chair

The Florida House of Representatives

Commerce Committee

Workforce Development & Tourism Subcommittee

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Meeting Agenda

Wednesday, January 15, 2020
3:30 pm – 5:30 pm
12 HOB

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 305 Preemption of Conditions of Employment by Rommel

HB 717 Space Florida Financing by Sirois

V. Closing Remarks

VI. Adjournment

317 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 305 Preemption of Conditions of Employment
SPONSOR(S): Rommel
TIED BILLS: **IDEN./SIM. BILLS:** SB 1126

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Local, Federal & Veterans Affairs Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Florida municipalities and counties have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment is inconsistent with state law if (1) the Legislature "has preempted a particular subject area" or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.

Current law prohibits a political subdivision from requiring an employer to provide wage and employment benefits not required by state or federal law, providing uniformity throughout the state with regard to mandated wage and non-wage compensation. Under current law, "Employment benefits" means anything of value that an employee may receive from an employer in addition to wages and salary. These include:

- Health benefits;
- Paid or unpaid days off for holidays;
- Sick leave;
- Vacation;
- Retirement benefits; and
- Profit-sharing benefits.

Current law provides for specific exemptions to the broad state preemption, such as non-compliance to the extent necessary to allow receipt of federal funds or the ability of a political subdivision to establish minimum wages and benefits for its own employees and contractors.

The bill amends s. 218.077, F.S., by expanding state preemption relating to wages and conditions of employment by political subdivisions.

The bill amends the "Employment benefits" definition and usage in the current law, and re-names it "Conditions of employment." The bill also expands the scope of the current definition, to include "those terms that form the basis of a relationship between an employer and a prospective or actual employee, including":

- Preemployment screenings;
- Job classification determinations;
- Job responsibilities;
- Hours of work; and
- Schedules and schedule changes.

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

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Home Rule

Municipalities and counties derive broad home rule authority from the Florida Constitution and general law, except as otherwise provided by law.

Noncharter Counties

A county without a charter has such power of self-government as provided by general[1] or special law, and may enact county ordinances not inconsistent with general law.[2] General law authorizes counties "the power to carry on county government"[3] and to "perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law."[4]

Charter Counties

Pursuant either to general[5] or special law, a county government may be adopted by charter approved by the county voters. A county with a charter has all powers of self-government *not inconsistent* with general law or special law approved by the county voters. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. In the event of a conflict between a county and municipal ordinance, the charter must provide which ordinance prevails.[6]

Municipalities

Article VIII, section 2 of the Florida Constitution provides that municipalities "shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.[7]

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature "has preempted a particular subject area" or (2) the local enactment conflicts with a state statute. Where state preemption applies it precludes a local government from exercising authority in that particular area.[8] Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.[9] Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.[10] In

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[1] Ch. 125, Part I, F.S.
[2] Art. VIII, s. 1(f), Fla. Const.
[3] S. 125.01(1), F.S.
[4] S. 125.01(1)(w), F.S.
[5] S. 125.60, F.S.
[6] Art. VIII, s. 1(g), Fla. Const.
[7] Art. VIII, s. 2(b), Fla. Const.
[8] Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).
[9] *See City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).
[10] *Mulligan*, 934 So. 2d at 1243.

cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.[11] Implied preemption should only be found to exist "where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature."[12] In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.[13]

Local Wage Ordinances in Florida

In 2003, the Legislature enacted s. 218.077, F.S., preempting the establishment of minimum wage to the state. The law does not limit the authority of a political subdivision to establish a minimum wage for:

- Its employees;
- The employees of an employer contracting with the political subdivision;
- The employees of a subcontractor of such an employer; or
- The employees of an employer receiving a direct tax abatement or subsidy from the political subdivision, as a condition of the direct tax abatement or subsidy.

Furthermore, the law contains an exception for situations where compliance with the law would prevent a political subdivision from receiving federal funds. This allows compliance with the Davis-Bacon and related acts,[14] which direct the Department of Labor to determine fair wages for contractors and subcontractors working on public buildings and public works. Florida law only allows non-compliance with regard to local minimum wage alterations to the extent necessary to allow receipt of the federal funds.

2013 Revisions

In 2013, s. 218.077, F.S., was amended to additionally prohibit political subdivisions from requiring an employer to provide employment benefits not required by state or federal law. This provided uniformity throughout the state with regard to mandated non-wage compensation. The amendment maintained the same exemptions and limitations as discussed above.

Under current law, an "employee" is defined as any natural person who is entitled under state or federal law to receive a state or federal minimum wage. An "employer" is defined as any person who is required under state or federal law to pay a state or federal minimum wage to the person's employees. A "Political subdivision" is a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.

"Employment benefits" means anything of value that an employee may receive from an employer in addition to wages and salary. These include, but are not limited to:

- Health benefits;
- Paid or unpaid days off for holidays;
- Sick leave;
- Vacation;
- Retirement benefits; and
- Profit-sharing benefits.

The 2013 revisions also created the Employer-Sponsored Benefits Study Task Force to study employment benefits and make a recommendation regarding state preemption policy. The task force

[11] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).
[12] *Tallahassee Mem'l Reg'l Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996)
[13] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).
[14] *See, e.g.*, 40 U.S.C. 3141 *et seq.*

considered studies, testimony, and statistics over four months before recommending that the state preempt local governments from setting minimum mandatory employer-sponsored benefits.[15]

In 2016, the Florida Retail Federation, Inc. and others sued the City of Miami Beach for enacting in an ordinance a "City Minimum Living Wage," raising the minimum wage for all employers subject to the city's business tax receipt requirement and testing the state's preemption powers.[16] The city argued that article X, section 24(f) of the Florida Constitution[17] nullified the preemption provision found in s. 218.077, F.S. The appellate court agreed with the Florida Retail Federation's position that the plain text of the Florida Constitution did not affect the legislature's authority to preempt municipal powers.

Effect of the Bill

The bill amends s. 218.077, F.S., by expanding state preemption relating to wages and conditions of employment by political subdivisions.

The bill amends the "Employment benefits" definition and usage in the current law, and re-names it "Conditions of employment." The bill also expands the scope of the current definition, to include "those terms that form the basis of a relationship between an employer and a prospective or actual employee, including":

- Preemployment screenings;
- Job classification determinations;
- Job responsibilities;
- Hours of work; and
- Schedules and schedule changes.

The bill amends the definition of "Employee" to mean any natural person who "employed by an employer."

The bill amends the definition of "Employer" to mean any person who "engages in any activity, enterprise, or business and employs at least one employee."

The bill provides that the regulation of conditions of employment is expressly preempted to the state, and that any existing ordinance, regulation, or policy of a political subdivision that is preempted by the bill is void.

B. SECTION DIRECTORY:

Section 1	Amends s. 218.077, F.S.; defining "condition of employment"; revising definitions; preempting to the state the right to regulate the conditions of employment by an employer; and conforming provisions to changes made by the act.
Section 2	Voids certain ordinances, regulations, or policies that are preempted by the act.
Section 3	Provides that the bill shall take effect upon becoming law.

[15] Workforce Florida, Inc., *Employer-Sponsored Benefits Study Task Force Final Report*, (Jan. 15, 2014), pg. 3, https://careersourceflorida.com/wp-content/uploads/2014/01/TaskForceBenefitsStudyFinalReport.pdf (last visited Jan. 2, 2020).
[16] *City of Miami Beach v. Florida Retail Federation, Inc.*, 233 So.3d 1236 at 1238 (Fla. 3d DCA 2017) (declined for review February 5, 2019).
[17] Stating that "[t]his amendment provides for payment of a minimum wage and *shall not be construed to preempt* or otherwise limit the authority of the state legislature or *any other public body* to adopt or enforce any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits..." (emphasis added).

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:

Private employers will not be required by political subdivisions to provide conditions of employment and related benefits not required by state or federal law, except in limited situations.

D. FISCAL COMMENTS:

None.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to preemption of conditions of employment; amending s. 218.077, F.S.; defining "condition of employment"; revising definitions; preempting to the state the right to regulate the conditions of employment by an employer; conforming provisions to changes made by the act; voiding certain ordinances, regulations, or policies that are preempted by the act; providing an effective date.

WHEREAS, the needs and expectations of job applicants and employees must be appropriately balanced against the needs and expectations of employers, who operate businesses that must respond to the demands of a dynamic and rapidly changing economy at the local, state, national, and international levels, and

WHEREAS, promoting the economic growth and prosperity of Florida citizens is an important objective of state government, and this economic growth and prosperity depends upon maintaining a stable business climate that will attract new employers to the state and allow existing employers to expand, and

WHEREAS, a local government should insert itself into the relationship between employer and employee only where a need for regulation has been clearly demonstrated, and

WHEREAS, allowing a local government to impose its individual requirements on the employment relationship could

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

reasonably be expected to drive businesses out of those communities and out of the state in search of a more consistent and predictable operating environment, thus disrupting Florida's economy and threatening the public welfare, and

WHEREAS, in light of these negative impacts, federal and state governments must be relied upon to adopt uniform regulations governing the employment relationship that strike an appropriate balance between the needs and expectations of employees and employers, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 218.077, Florida Statutes, is amended to read:

218.077 Wage and conditions of employment ~~benefits~~ requirements by political subdivisions; restrictions.—

(1) As used in this section, the term:

(a) "Condition of employment" means those terms that form the basis of a relationship between an employer and a prospective or actual employee, including preemployment screenings; job classification determinations; job responsibilities; hours of work; schedules and schedule changes; wages; payment of wages; leave; paid or unpaid days off for holidays, illness, vacation, and personal necessity; and employee benefits such as retirement, profit-sharing, health,

disability, death, and insurance benefits.

(b) ~~(a)~~ "Employee" means any natural person who is employed by an employer ~~entitled under state or federal law to receive a state or federal minimum wage~~.

(c) ~~(b)~~ "Employer" means any person who engages in any activity, enterprise, or business and employs at least one employee ~~is required under state or federal law to pay a state or federal minimum wage to the person's employees~~.

(d) ~~(c)~~ "Employer contracting to provide goods or services for the political subdivision" means a person contracting with the political subdivision to provide goods or services to, for the benefit of, or on behalf of, the political subdivision in exchange for valuable consideration, and includes a person leasing or subleasing real property owned by the political subdivision.

~~(d) "Employment benefits" means anything of value that an employee may receive from an employer in addition to wages and salary. The term includes, but is not limited to, health benefits; disability benefits; death benefits; group accidental death and dismemberment benefits; paid or unpaid days off for holidays, sick leave, vacation, and personal necessity; retirement benefits; and profit-sharing benefits.~~

(e) "Federal minimum wage" means a minimum wage required under federal law, including the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.

(f) "Political subdivision" means a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.

(g) "Wage" means that compensation for employment to which any state or federal minimum wage applies.

(2) Except as otherwise provided in subsection (3), a political subdivision may not establish, mandate, or otherwise require an employer to pay a minimum wage, other than a state or federal minimum wage, to apply a state or federal minimum wage to wages exempt from a state or federal minimum wage, or to offer a condition of employment that is ~~provide employment benefits~~ not otherwise required by state or federal law. The regulation of conditions of employment is expressly preempted to the state.

(3) This section does not:

(a) Limit the authority of a political subdivision to establish a minimum wage other than a state or federal minimum wage or to require a condition of employment ~~provide employment benefits~~ not otherwise required under state or federal law:

1. For the employees of the political subdivision;

2. For the employees of an employer contracting to provide goods or services for the political subdivision, or for the employees of a subcontractor of such an employer, under the terms of a contract with the political subdivision; or

3. For the employees of an employer receiving a direct tax

abatement or subsidy from the political subdivision, as a condition of the direct tax abatement or subsidy.

(b) Apply to a domestic violence or sexual abuse ordinance, order, rule, or policy adopted by a political subdivision.

(4) If it is determined by the officer or agency responsible for distributing federal funds to a political subdivision that compliance with this act would prevent receipt of those federal funds, or would otherwise be inconsistent with federal requirements pertaining to such funds, then this act does not apply, but only to the extent necessary to allow receipt of the federal funds or to eliminate the inconsistency with such federal requirements.

(5) This section does not prohibit a federally authorized and recognized tribal government from establishing conditions of employment for any ~~requiring employment benefits for a~~ person employed within a territory over which the tribe has jurisdiction.

Section 2. Any existing ordinance, regulation, or policy of a political subdivision that is preempted by this act is void.

Section 3. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

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, removes the requirement that the Governor and Cabinet must approve Space Florida's bond proposals, specifies that revenue bonds issued by Space Florida may not constitute an indebtedness 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 does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED 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 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.[4]

Special Districts

In 1989, the Legislature passed the Uniform Special District Accountability Act.[5] 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;
- 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

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[1] SPACE FLORIDA, *Open Government*, https://www.spaceflorida.gov/about/open-government/ (last visited Jan. 9, 2020).
[2] *See* s. 331.302, F.S.
[3] S. 331.3011, F.S.
[4] Ss. 331.301–331.371, F.S.
[5] Ch. 189, F.S.

- 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.[6]

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.[7] Revenue bonds do not constitute an indebtedness of Space Florida unless they are additionally secured by the full faith and credit of Space Florida.[8]

Space Florida may also issue refunding bonds, bond anticipation notes,[9] obtain loans, and issue debt to pay for costs and expenses.[10] Space Florida is authorized to pledge its full faith and credit as additional security for the payment of any bonds that it issues.[11]

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.[12]

Effect of the Bill

The bill amends s. 331.302, F.S., to clarify the definition of the term "bonds".

The bill amends s. 331.305, F.S., to remove the requirement that the Legislature must be notified and that the Governor and Cabinet must approve Space Florida's bond proposals.

The bill amends s. 331.331, F.S., to specify that revenue bonds issued by Space Florida may not constitute an indebtedness of Space Florida and may not be secured by state appropriations.

The bill repeals s. 331.334, F.S., relating to the pledging of assessments and other revenues and properties as additional security on bonds by Space Florida.

The bill repeals s. 331.336, F.S., relating to the issuance of bond anticipation notes by Space Florida.

The bill repeals s. 331.337, F.S., relating to short-term borrowing by Space Florida.

The bill amends s. 331.340, F.S., reducing the maturity date for bonds issued by Space Florida from 40 years to 30 years from the date of issuance.

The bill amends s. 331.346, F.S., to allow Space Florida to validate its bonds pursuant to Ch. 75, F.S.

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[6] S. 331.305(20), F.S.
[7] S. 331.331, F.S.
[8] S. 331.331(2), F.S.
[9] S. 331.336, F.S.
[10] S. 331.337, F.S.
[11] S. 331.334, F.S.
[12] S. 331.305(20), F.S.

B. SECTION DIRECTORY:

Section 1 Amends s. 331.302, F.S.; specifying bonding provisions to which Space Florida is subject

Section 2 Amends s. 331.303, F.S.; revising the definition of the term "bonds".

Section 3 Amends s. 331.305, F.S.; revising powers of Space Florida regarding bond issuance; deleting provisions regarding Legislative review of bond proposals, and presentation of bond proposals to, and approval of bond issuance by, the Governor and Cabinet.

Section 4 Amends s. 331.331, F.S.; revising provisions relating to securing the issuance of revenue bonds.

Section 5 Repeals s. 331.334, F.S., relating to pledging assessments and other revenues and properties as additional security on bonds; s. 331.336, F.S., relating to issuance of bond anticipation notes; and s. 331.337, F.S., relating to short-term borrowing.

Section 6 Amends s. 331.335, F.S.; revising provisions relating to lien of pledges.

Section 7 Amends s. 331.340, F.S.; revising bond maturity date requirements.

Section 8 Amends s. 331.346, F.S.; authorizing Space Florida to validate bonds pursuant to certain provisions.

Section 9 Provides for an effective date.

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 as the conduit issuer of the debt.

D. FISCAL COMMENTS:

None.

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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to Space Florida financing; amending s. 331.302, F.S.; specifying bonding provisions to which Space Florida is subject; amending s. 331.303, F.S.; revising the definition of the term "bonds"; amending s. 331.305, F.S.; revising powers of Space Florida regarding bond issuance; deleting provisions regarding presentation of bond proposals to, and approval of bond issuance by, the Governor and Cabinet; amending s. 331.331, F.S.; revising provisions relating to securing the issuance of revenue bonds; repealing s. 331.334, F.S., relating to pledging assessments and other revenues and properties as additional security on bonds; repealing s. 331.336, F.S., relating to issuance of bond anticipation notes; repealing s. 331.337, F.S., relating to short-term borrowing; amending s. 331.335, F.S.; revising provisions relating to lien of pledges; amending s. 331.340, F.S.; revising bond maturity date requirements; amending s. 331.346, F.S.; authorizing Space Florida to validate bonds pursuant to certain provisions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Section 1. Subsection (5) of section 331.302, Florida Statutes, is amended to read:

331.302 Space Florida; creation; purpose.—

(5) Space Florida is subject to applicable provisions of chapter 189, including, but not limited to, s. 189.051. To the extent that any provisions of chapter 189 conflict with this act, this act shall prevail.

Section 2. Subsection (3) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(3) "Bonds" means revenue bonds or other evidences of indebtedness, including bank loans, ~~assessment bonds, or other bonds or obligations~~ issued by Space Florida for the purpose of raising financing for its projects.

Section 3. Subsection (20) of section 331.305, Florida Statutes, is amended to read:

331.305 Powers of Space Florida.—Space Florida may:

(20) Issue revenue bonds or other evidences of indebtedness, including bank loans, ~~assessment bonds, or any other bonds or obligations~~ authorized by ~~the provisions of~~ this act or any other law~~, or any combination of the foregoing,~~ and pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects, including payloads and space flight hardware, and equipment for research,

development, and educational activities, to provide for any facility, service, or other activity of Space Florida, and provide for the retirement or refunding of any bonds or obligations of Space Florida, or for any combination of the foregoing purposes. ~~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.~~

Section 4. Subsection (2) of section 331.331, Florida Statutes, is amended to read:

331.331 Revenue bonds.—

(2) The issuance of revenue bonds may be secured by or payable from the gross or net pledge of the revenues to be derived from any project or combination of projects;~~,~~ from the rates, fees, rentals, tolls, fares, assessments, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of Space Florida; or from any source of pledged security other than state appropriations. Such bonds are ~~shall~~ not ~~constitute an indebtedness of Space Florida unless such bonds are additionally~~ secured by the full faith and credit 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.

Section 5. Sections 331.334, 331.336, and 331.337, Florida Statutes, are repealed.

Section 6. Section 331.335, Florida Statutes, is amended to read:

331.335 Lien of pledges.—All pledges of revenues ~~and assessments~~ made pursuant to ~~the provisions of~~ this act shall be valid and binding from the time when such pledges are made. All such revenues ~~and assessments~~ so pledged and thereafter collected shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be 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 thereof.

Section 7. Section 331.340, Florida Statutes, is amended to read:

331.340 Authorization and form of bonds.—Bonds may be authorized by resolution or resolutions of the board which are ~~shall be~~ adopted by a majority of all of the members thereof then in office and present at the meeting at which the resolution or resolutions are adopted and shall be approved as provided in s. 331.305. The resolution or resolutions of the

board may be adopted at the same meeting at which they are introduced~~,~~ and shall be published and noticed. The board may by resolution authorize the issuance of bonds and determine~~, fix~~ the aggregate amount of bonds to be issued, the purpose or purposes for which the moneys derived therefrom shall be expanded, 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, which shall not exceed 30 ~~40~~ years from their respective dates of issuance, the medium of payment, the place or places within or without 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. Such authorizing resolution may further provide that such bonds may be executed manually or by engraved, lithographed, or facsimile signature, provided that where signatures are engraved, lithographed, or facsimile, a ~~no~~ bond shall not be valid unless countersigned by a registrar or other officer designated by appropriate resolution of the board. The seal of Space Florida may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature or

a facsimile of whose signature appears ~~shall appear~~ on any bonds or coupons ceases ~~shall cease~~ to be such officer before the delivery of such bonds, such signature or facsimile is ~~shall~~ nevertheless ~~be~~ valid and sufficient for all purposes ~~the same~~ as if the officer had remained in office until such delivery.

Section 8. Section 331.346, Florida Statutes, is amended to read:

331.346 Validity of bonds; validation proceedings.—Any bonds issued by Space Florida shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof. Before ~~Prior to~~ the issuance of any bonds, Space Florida shall publish a notice at least once in a newspaper or newspapers published or of general circulation in the appropriate counties in the state, stating the date of adoption of the resolution authorizing such obligations, the amount, maximum rate of interest, and maturity of such obligations, and the purpose in general terms for which such obligations are to be issued, and further stating that no action or proceeding questioning the validity of such obligations or of the proceedings authorizing the issuance thereof, or of any covenants made therein, must be instituted within 20 days after the first publication of such notice, or the validity of such obligations, proceedings, and covenants shall not be thereafter questioned in any court whatsoever. If

no such action or proceeding is so instituted within such 20-day period, then the validity of such obligations, proceedings, and covenants shall be conclusive, and all persons or parties whatsoever shall be forever barred from questioning the validity of such obligations, proceedings, or covenants in any court whatsoever. Alternatively, Space Florida may validate its bonds pursuant to chapter 75.

Section 9. This act shall take effect July 1, 2020.

CODING: Words stricken are deletions; words underlined are additions.