1989

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Florida Senate & House of Representatives

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S 1489 GENERAL BILL/CS/2ND ENG by Governmental Operations; Derasyan and others (Similar CS/CS/CS/E 1647, Compare H 731, H 1193, S 483, S 862)

Spaceport Florida Authority Act; provides for establishment, powers & functions of Spaceport Florida Authority; sets forth geographical boundaries of spaceport territories under control of authority; provides for federal air space notification; provides restrictions on development of Cape San Blas facility; provides powers & duties of authority; authorizes authority to construct & furnish facilities & services; provides sovereign immunity, etc. Amends F.S. Effective Date: 07/06/89.

04/14/89 SENATE Filed
04/27/89 SENATE Introduced, referred to Governmental Operations; Commerce; Community Affairs; Finance, Taxation and Claims; Appropriations —SJ 220

04/28/89 SENATE Extension of time granted Committee Governmental Operations

05/04/89 SENATE On Committee agenda—Governmental Operations, 05/08/89, 10:00 am, Room—H—(428)

05/08/89 SENATE Comm. Report: CS by Governmental Operations —SJ 311

05/11/89 SENATE CS read first time —SJ 316; Now in Commerce —SJ 311

05/12/89 SENATE Extension of time granted Committee Commerce

05/24/89 SENATE On Committee agenda—Commerce, 05/25/89, 12:00 noon, Room—A—(LL-37)—Not considered —SJ 437

05/24/89 HOUSE On Committee agenda—Appropriations, 05/25/89, 8:00 am, 21-HOB—Not received

05/26/89 SENATE Extension of time granted Committee Commerce

05/29/89 SENATE Withdrawn from Commerce; Community Affairs; Finance, Taxation and Claims —SJ 495; Now in Appropriations

05/30/89 SENATE Withdrawn from Appropriations —SJ 613; Placed on Calendar

06/01/89 SENATE Placed on Special Order Calendar —SJ 686; Was taken up —SJ 737; CS passed as amended; YEAS 35 NAYS 0 —SJ 747

06/01/89 HOUSE In Messages

06/03/89 HOUSE Received, placed on Calendar —HJ 1503; Read second time; Amendments adopted; Read third time; CS passed as amended; YEAS 98 NAYS 7 —HJ 1514

06/03/89 SENATE In Messages; Was taken up —SJ 1388; Concurred; CS passed as amended; YEAS 37 NAYS 0 —SJ 1389

06/03/89 SENATE Ordered engrossed, then enrolled —SJ 1399

06/20/89 Signed by Officers and presented to Governor

07/05/89 Approved by Governor; Chapter No. 89—300

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

A. Present Situation:

Florida has had major involvement in the nation's space program since its inception during World War II. The Cape Canaveral Air Force Center was established in 1950 to serve as the principal eastern launch site for U.S. missiles. The National Aeronautics and Space Administration constructed a space launch on Merritt Island in 1961 which, in conjunction with Cape Canaveral, galvanized Florida's central role in future space explorations.

Billions of federal dollars have been spent on the nation's space program, and with the Kennedy Space Center as a focal point of space activity, Florida has benefited in revenues from its aerospace, high-tech, and support-services sector. Dozens of high technology and aerospace firms have located their operations in Florida, including companies such as Martin-Marietta, McDonnell Douglas, and General Dynamics. Despite fluctuations in the funding level and space-related employment in the past 2 decades, the space industry remains an important part of the state's economy.

Florida has encouraged the growth of the space program in the state. Governor Leroy Collins provided the Air Force with an additional 11,728 acres on Cape Canaveral through a 1955 Deed of Secession for the expansion of several new launch complexes on the installation. Governor Collins also created a Nuclear and Space Commission to promote and support extensive research relative to nuclear and aerospace development, and to attract new industries based on nuclear and aerospace science and engineering to Florida. Governor Claude Kirk established a task force on space during his administration, and Governor Reubin Askew initiated the development of an aerospace technological center, now named the Southern Technology Applications Center.

The U.S. government has endorsed the establishment of a commercial expendable-launch-vehicle industry through a series of Presidential Orders and through federal legislation. The Commercial Space Launch Act of 1984 requires the U.S. Department of Transportation to regulate and promote commercial space launches by the private sector. The act also restricts the federal government from launching commercial rockets and satellites. Private sector space industry, which has become a competitive industry, is projected to grow to multibillion dollar proportions in the next decade.

Governor Bob Martinez, through Executive Order 87-81, created the Governor's Commission on Space to develop recommendations regarding a public/private partnership to make Florida more competitive for space industry jobs and investment. The
commission is comprised of 26 persons representing the aerospace industry, the educational community, and state legislators and other state officials. The commission is staffed by the Department of Commerce.

In March 1988, the commission submitted recommendations to Governor Martinez advocating that the state make a longterm commitment to making Florida the center of space commerce in the United States. A primary component of that recommendation is to develop a commercial launch facility in Florida. The FY 1988-89 Appropriations Act appropriated $500,000 to the Department of Commerce to contract for a feasibility study on developing a commercial spaceport in Florida. The contract was awarded to United Engineers and Constructors Inc., which determined that such an endeavor was viable. The company, in conjunction with a study team of aerospace experts, developed a master plan for the development of Spaceport Florida.

Under most circumstances contemplated in the Florida Statutes, entities responsible for constructing major projects must be granted permits and variances by various state and local agencies. The primary agencies involved in a typical permitting process include the departments of Transportation, Community Affairs, Environmental Regulation, Natural Resources, as well as the Game and Fresh Water Fish Commission, and affected water management districts, local entities, and regional planning councils. In addition, sometimes projects involve variances or require permission to use state-owned lands by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund, as provided in ch. 253, F.S.

Article X, s. 6, Fla. Const., provides that private property may be taken for a public purpose, through the exercise of the power of eminent domain, provided full compensation is paid to the owner of the property. This state power may be delegated to governmental entities by legislative enactment.

Article VII, s. 11, Fla. Const., authorizes the state to pledge bonds to finance the cost of fixed capital outlay projects. The State Bond Act is established in ss. 215.57-215.83, F.S. The Division of Bond Finance of the Department of General Services is authorized to issue bonds for governmental entities. The division, which reports directly to the Governor and Cabinet as the governing board of the division, is authorized to issue all state bonds pledging the state’s full faith and credit, and to issue all revenue bonds on behalf of state agencies and certain units of local government. The division may sell bonds through public sale by competitive bid or may, by resolution adopted at a public meeting, determine that a negotiated sale of such bonds is in the best interest of the issuer.

Section 768.28, F.S., 1988 Supp., which waives the state’s sovereign immunity in tort actions, provides that the state and its agencies and subdivisions are liable to the same extent as a private individual in the same circumstances, subject to the limitations provided in the section. The state's liability is limited to $100,000 for each claim or judgment, and limited to a maximum of $200,000 for all claims arising from the same incident. The Division of Risk Management of the Department of Insurance, pursuant to ch. 284, F.S., generally provides insurance coverage for all state agencies and their employees regarding general liability of the state.

Chapter 20, F.S., provides definitions for governmental entities such as departments, councils, boards, and agencies. No specific definition is provided for an authority; however, "agency" is defined to include authorities as a unit of government under its definition. "Board of trustees" is
defined to include a board created as authorized by specific statute to administer public property or a public program.

Currently, laws establish such authorities as expressway authorities, bridge authorities, port authorities, and others. These authorities generally are subject either to state laws and regulations governing state agencies such as purchasing provisions, state audits, and the provisions of the State Bond Act, or are subject to ordinances of a local government. As well, their statutory purposes are generally narrow in scope and their powers restricted to the functional activities which they perform.

Methods of creation, operation, and maintenance of special districts appear throughout the statutes, of which many are created by special act. There is a lack of uniformity in how special districts operate and their accountability to the public and the state. Section 200.001, F.S., defines independent districts as a special district of which the governing body is an independent body, either elected or appointed, and the budget is not reviewed by a local governing authority.

B. Effect of Proposed Changes:

State law would create a public corporation as a subdivision of the state to plan spaceport systems and projects in the state, and to stimulate the development of space exploration, space facilities, and space commerce. The entity would be named the Spaceport Florida Authority, and would have all the powers, rights, privileges, and authority as provided under the laws of the state. The purpose of the authority would be to create commercial space-launch and related facilities in Florida, primarily for the commercial launching of satellites for private use. The facility would be the first such permanent commercial facility in the world. The authority would be the sole regulator of spaceports in the state.

Such authority would be unique from any other statutorily-created entity in terms of the extent of the powers granted, and the lack of restrictions imposed. The authority would be provided powers to include the power of eminent domain, the power to issue bonds, the power to acquire property, the authority to cite utility lines, and the power to expand its boundaries under certain conditions. The authority would be empowered to establish and collect fees, rentals and other charges for projects within the spaceport territory.

The law would provide that certain properties would constitute spaceport territories, which could be selected as sites for the spaceport facilities. The territories defined are those which are a designated area within the Cape Canaveral Air Force Station in Brevard County, and a section of Cape San Blas which is currently part of Eglin Airforce Base in Gulf County. As well, the board would be permitted to change boundary lines of spaceport territories with the consent of the owners of all the land which would be excluded from or included in such boundary lines, and with the approval of the majority of the owners within the spaceport territory. The authority would also be permitted to exercise the power of eminent domain, or to designate conservation areas "within or without" the spaceport territory to carry out its duties.

A board of supervisors would be created within the Spaceport Authority consisting of seven members who would be appointed by the Governor and confirmed by the Senate at the next regular session of the Legislature. Board members would be required to be residents of the state and to have experience in the aerospace or commercial space industry, or in finance, or to have significant relevant experience. Members would serve for
staggered 4-year terms, or until a successor is appointed and qualified. A member could not be appointed to serve more than two full 4-year terms; however, in addition, such members could also serve an initial 3-year term created by the staggering scheme for regular terms, or could also fill a vacancy of less than 4 years. A member of the board is not precluded from holding any other private or public position. Thus, elected officials could be appointed to the board, as well as persons who may be associated with companies which sell services to the board.

The board would exercise the powers of the authority and would operate independently of state or local agencies. The board would be authorized to hire staff and to determine its own system of personnel management and benefits. Such personnel would not be part of the state employment system. The board would also be authorized to establish its rate of reimbursement for travel expenses and per diem of its employees. The board would establish its budget, which would not be subject to the approval of any state or local entity. As well, the board would be authorized to contract for services and to make purchases on behalf of the authority, which would not be subject to state laws and regulations.

Certain tax exemptions would be permitted to the authority. The exemption from state and local taxes would apply to all of the authority’s assets and properties, to the bonds it issues, and to all fees, charges, and other revenues of the authority from projects authorized by the bill, which would be deemed to be a public function. Real and personal property owned by the spaceport and used for commercial space would be deemed to be for a public purpose and would be tax exempt. The authority would also be exempt from excise taxes on documents and tax on aviation fuel for spaceport use. Current exemptions regarding space technology would be expanded to include certain components of launch vehicles.

The authority would be provided broad authorization to issue bonds for any of its activities. Such issuance of bonds would not be subject to the approval of the Department of General Services in accordance with the State Bond Act. Such bonds would not be secured with the full faith and credit of the state. The authority could also enter into cooperative agreements with the state, counties, and municipalities to provide basic services for the board, and to finance joint projects. Such agreements could be made for up to 40 years.

The authority would be required to generally comply with state laws and regulations to obtain environmental permits. The authority would be granted sovereign immunity in the same manner as such immunity inures to the state, and sovereign immunity would be waived with respect to the authority to the same extent it is statutorily waived with respect to the state. The authority would not be insured by the Department of Insurance, but would be authorized to obtain insurance to cover its buildings and properties, and to insure against the general liabilities of the authority.

The authority would be required to submit an annual report to the Governor and to the Legislature regarding its activities. The records of the authority would be open to public inspection pursuant to ch. 119, F.S., except for information which would reveal a trade secret, as defined in s. 812.081, F.S.

A section-by-section analysis of the bill is attached following Section IV of this staff analysis.
II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Indeterminable.

B. Government:

The fiscal impact of this bill is indeterminable, as the extent of the authority's programs is unknown.

Tax exemptions for space-related industry activities and the use of properties would be provided. The impact of these exemptions is indeterminable. The tax exemptions provided in the bill for commercial-space activity is new activity in the state, and exemptions relating to such activities do not currently generate state revenues.

The Governor's FY 1989-90 budget request includes a request of $10 million for the Spaceport Florida Authority.

III. COMMENTS:

The authority established by the bill would be distinct from any other entity created by law, and would be endowed with components of current authorities, municipalities, and special districts. It appears that it would be most similar to a special independent district.

The authority would be granted broad powers and, pursuant to section 2 of bill, all powers, rights, privileges, and authority as "provided under the laws of the state." Thus, it is not clear if the powers of the authority would extend beyond the provisions of the bill. As well, it appears that the authority would not be subject to the oversight of any state or local governmental entity. The authority would be permitted to issue bonds, enter into contracts, make expenditures, and generally operate under procedures that it establishes within its sole discretion. The bill does not specify audit requirements.

Section 5 of the bill provides the authority with the power to issue bonds for any facility, service, or other activity. Current law generally limits bond issuance for capital outlay projects. As well, the bonds issued by the authority would not be required to be issued in accordance with the State Bond Act, ch. 215, F.S.

Section 112.313(3), F.S., prohibits public officers and employees from directly or indirectly doing business in their public capacity with private entities in which they have interests. The bill provides that the seven members of the board of supervisors would be required to have expertise in space-related or finance industries. As well, the bill would provide that no appointee would be precluded from holding any other private or public position. It appears that such persons may be from industries which would provide services to the spaceport and, thus, a climate could be created wherein there appears to be a potential for conflicts of interest.

The board of supervisors would be granted powers to govern the spaceport territory in a variety of respects, i.e. conservation, roads, planning, etc. It may be desirable to have other areas of expertise represented on the board.

IV. AMENDMENTS:

None.
SECTION-BY-SECTION ANALYSIS

5 Section 1 provides a short title, "Spaceport Florida Authority Act."

5 Section 2 provides that a Spaceport Florida Authority would be created as a public corporation, body politic, and subdivision of the state. The purpose and function of the authority would be to plan, develop, and promote spaceport systems and projects. Additionally, the authority could advise and cooperate with state and federal entities in carrying out its duties.

5 Section 3 provides definitions for the authority, board, bonds, cost, federal aid, landing area, launch pad, payload, person, project, range, recovery, spaceport, spaceport launch facilities, spaceport system, spaceport territory, and spaceport user.

8 Section 4 provides that specific, designated areas within Brevard County and Gulf County would be designated as spaceport territory.

8 Section 5 provides for the powers of the authority, which would include all powers granted under the Florida General Corporation Act, chapter 607, F.S.; to sue or be sued; adopt and use a corporate seal; acquire property and other assets; sell or dispose of property and assets; make and execute any and all contracts; lease any facilities or property; appoint an executive director; exercise powers of eminent domain over property owned by any other political body or municipal corporation within or without territorial limits for safety concerns; own, acquire, construct, reconstruct, maintain and extend Spaceport facilities and other systems including educational, cultural, and parking facilities; advertise; provide transportation equipment to meet the needs of the authority; own and acquire power production and transmission facilities; purchase power for distribution; supply water and sewer systems, waste collection, and disposal; and operate new and experimental public utilities. The authority could not construct any system if one of similar character is being operated by a neighboring municipality or private company. Additionally, the authority would be empowered to provide for the set-aside of conservation areas, the establishment of mosquito control or other insect control programs, the operation of water and flood control facilities, the operation of public safety facilities, and the development of research, experimentation, and development activities. Many of these actions would be authorized "within or without" the spaceport territory.

The authority would also be empowered to adopt rules, regulations, and orders prescribing the duties of the officers and the operational procedures of the authority. The authority would be permitted to develop a personnel management system, and to establish rules governing the per diem and traveling expenses of its employees. The employees would not be state employees, and the rules regarding per diem and reimbursement for expenses would not be subject to state laws.

The authority could issue revenue bonds, assessment bonds, or any other bond or obligation authorized by any law for any activity of the authority.

14 Section 6 provides that the authority would be governed by a seven-member board of supervisors appointed by the Governor. The law would prescribe provisions for the board to include qualifications, length of terms, minimum meeting requirements, salary, and conditions for member removal.
16 Section 7 provides that a treasurer would be designated who would have charge of the funds of the authority. The board would be directed to select depositories for its funds, and would be authorized to employ a fiscal agent.

17 Section 8 provides that the powers of the board would include the power to adopt bylaws, rules, resolutions and orders; maintain an office; enter upon lands; execute contracts; establish departments, committees, or other agencies; appoint an executive director; examine tax roles; engage in planning; execute intergovernmental agreements; establish reserve funds; enter into agreements of joint development; establish standards for construction and operation assuring that environmental, economic, and safety standards are patterned after those in existence, and that no federal act governing particular services would be superceded; and prepare and submit annual reports to the Governor, the President of Senate, and the Speaker of the House, as well as to the minority leaders in the Senate and the House of Representatives, respectively.

20 Section 9 provides that the authority would have the power to exercise any of its rights, powers, privileges, and authority in any and all portions of any spaceport territory lying within the boundaries of any municipal corporation or other political subdivision.

21 Section 10 provides that the authority would be empowered to construct, develop, furnish, and operate projects within the spaceport territory, and to establish and collect fees, rentals, and other charges.

21 Section 11 provides that the authority would have the power to build, control, and maintain roads in accordance with established highway safety standards.

22 Section 12 provides that the authority would have the exclusive power and authority to operate and regulate spaceports in the state, unless the authority otherwise officially requests the participation of any other person or entity.

22 Section 13 provides that the authority would have the right to operate its projects across rights-of-way, so long as just compensation, including fees, are paid for any private property taken or damaged by the exercise of such power.

22 Section 14 provides that the authority would have the power to establish, collect, and revise fees for the use of spaceport facilities and services. The rates would be set to produce revenue at least sufficient to provide for all expenses of operation and maintenance. The board would have the authority to enter into contracts for the use of the authority's projects.

23 Section 15 provides that in the event any of the fees or charges owed to the authority become delinquent or in default, the unpaid balance, interest accrued, and attorney's fees and costs could be recovered in a civil action.

23 Section 16 provides that in the event of nonpayment of fees or charges, the board would have the power to discontinue services until such time that fees, rentals, or charges were fully paid, together with interest and penalties. The authority could enforce payment by suit in any court of competent jurisdiction or by any other lawful method of enforcement.
24 Section 17 provides that the board would be authorized to adopt, review, amend, supplement, or repeal a comprehensive plan for the development of the area within any spaceport, so long as it is consistent with the Local Development Regulation Act, ch. 163, F.S. The law would prohibit any construction, alteration, or removal of any building or structure within the spaceport territory without a permit obtained from the board or its designee.

24 Section 18 provides additional powers of the board, which would include adopting regulations to prohibit or control pollution, to site utility lines, cables, pipes, and ducts. Also, the board, at its discretion, could divide the spaceport territory into zones or districts.

25 Section 19 provides that all taxes of the authority, together with all penalties for default and all costs in collecting the same, including reasonable attorney's fees, would constitute a lien of equal dignity with the liens of the county and state. Charges and fees due under any service agreement would constitute a lien of equal dignity with authority taxes.

26 Section 20 provides for the foreclosure of authority liens. Such foreclosure proceedings could proceed at any time after the expiration of 1 year of the delinquency. The authority could join, as a party defendant, the appropriate Florida county for the purpose of determining the amount of respective liens. Additionally, any judicial sale would operate to satisfy outstanding state, county, and authority liens. Any such foreclosure action would operate to quiet title to the property.

27 Section 21 provides that the authority would be authorized to pay any delinquent taxes upon lands wholly or partly within the boundaries, and to redeem or purchase any tax sale certificates issued on property wholly or partly within the spaceport territory. Taxes paid by the authority, together with costs, would constitute a lien in favor of the authority, and could be foreclosed as provided. The authority could certify to the circuit court clerk any amount owed to the authority, and could share in any proceeds of a tax sale.

28 Section 22 provides that the authority would be authorized to accept federal funds and aid, or any other moneys and properties, either public or private, for authority use.

28 Section 23 provides that governing bodies of municipalities would be authorized to enter into and carry into effect contracts and agreements for the performance of any common function, powers, and duties with the authority. A central agency or common agent of the contracting parties could be authorized to do the same for the respective participants.

28 Section 24 provides for the authorization of cooperative agreements between the authority and the state, counties, and municipalities for aid and cooperation in the making of loans, gifts, or grants to the authority. Further authorized are cooperative agreements to provide basic services to the authority which are necessary or desirable for the spaceport. These agreements would include fire and police protection for the authority, and persons and property within the spaceport territory. The board would be authorized to undertake and finance joint projects with municipalities. Any agreements could not exceed 40 years.
Section 25 provides that the authority would have the power to make and enter all contracts and agreements necessary or incidental to the performance of the functions of the authority. Further, the authority would be authorized to contract with and accept and receive grants or loans of money, material, or property from any person public or private, as necessary. In connection with such contract grant or loan, the authority may stipulate and agree to such covenants, terms, and conditions as the board deems appropriate.

Section 26 provides that the authority would be granted certain tax exemptions. The performance of essential public functions and projects of the authority would constitute public property, and all assets and properties of the authority, all bonds issued and interest paid thereon, and all fees, charges, and other revenue would be exempt from all taxes of the state, political subdivisions, agencies, or instrumentalities. Such exemption would not apply to activities which could not be determined to be a public function or to taxes imposed by ch. 220, F.S., to interest, income, or profits on debt obligations owed by corporations.

Section 27 would amend subsection (6) of s. 196.012, F.S., 1988 Supp., which provides for exemptions from an annual application required for tax exemptions. This exemption would also include property within the spaceport territory used in furtherance of authority purposes. Real and personal property owned by the spaceport which would be used for purposes related to the commercialization of space would be deemed to perform an essential government purpose and would be tax exempt.

Section 28 would exempt all deeds and other instruments of the authority from excise taxes on documents.

Section 29 would provide for an exemption from s. 206.9825, F.S., for aviation fuel purchased by the authority or spaceport user.

Section 30 would amend s. 212.031, F.S., 1988 Supp., to exempt from taxation property used in the spaceport territory that is an integral part of and used primarily in support of space flight. "In support of space flight" would be defined to mean the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing any space facility, space propulsion system, or space vehicle, satellite, or station possessing space flight capacity.

Section 31 would repeal paragraph (c) of subsection (5) of s. 212.06, F.S., which provides that it is not the intent of the chapter to levy taxes on any telecommunications or any associated launch vehicle.

Section 32 would amend s. 212.08, F.S., to provide specific tax exemptions for sales, rentals, use, and other transactions related to the Spaceport Florida Authority and its connected space activities. Procedures to qualify for the exemption, including record keeping, auditing, and penalty provisions, would be provided.

Section 33 would exempt from taxation special fuel used for spaceport activities made in support of space flight.

Section 34 would amend s. 212.67, F.S., 1988 Supp., to provide for refunds on motor fuel or special fuel taxes paid if the fuel was used for space or space-related purposes.

Section 35 provides that the authority would obtain required environmental permits in accordance with federal and state law and also comply with ch. 380, F.S., The Florida Environmental Land and Water Management Act.
Section 36 provides that the records of the authority or its users would be public records, except for any information which would reveal a trade secret, as defined in s. 812.081, F.S.

Section 37 provides that the authority would have the power to apply to the federal government for a grant to allow the spaceport territory to be a foreign trade zone.

Section 38 would provide sovereign immunity to the authority in the same manner and extent as the state under state law and the Florida Constitution.

Section 39 would provide that the authority would not be insured by the Division of Risk Management of the Department of Insurance. The authority would be required to establish a safety program and to secure insurance coverage within reasonable limits to cover its general liabilities, as well as to cover buildings, facilities, and property.

Section 40 exempts the Spaceport Florida Authority from the pre-suit notice privilege afforded to the state and the Department of Insurance required under s. 768.28, F.S., 1988 Supp.

Section 41 provides that the board would be authorized to strike out or to correct the description of any land within or claimed to be within the spaceport territory upon the consent of the owners of all the land that would be included or excluded, and of the owners of not less than the majority in acreage of all lands within any spaceport. The spaceport territory could also be enlarged by the written consent or by resolution of the board which would be approved at a special election of the freeholders residing within the area to be annexed. Any lands added to a spaceport territory would be subject to, or exempt from, specific taxes and assessments as provided for in this act. No electrical power could be furnished unless the authority offers to purchase from any person who is at the time in the business of providing electricity for sale within the annexed area. New launch site designations outside present spaceport territories would be by specific statutory amendment.

Section 42 provides that the board or any aggrieved person would have recourse to such remedies in law and equity as may be necessary.

Section 43 provides that the authority would have the power to issue revenue bonds secured by or payable from the gross or net pledge of revenues to be derived from any project or combination of projects, from the rates, fees, tolls, fares, or other charges to be collected from the users of any projects.

Section 44 provides that the board would be authorized to issue additional bonds if needed for the completion of a project.

Section 45 provides that the board would have the power to retire or refund any bonds or obligations of the authority. Refunding bonds could be issued anytime when in the judgment of the board such issuance is advantageous to the authority.

Section 46 provides that the authority could pledge any taxes, assessments, revenues, or other funds, and the authority's full faith and credit as added security on bonds. Bonds issued by the authority would not be secured by the full faith and credit of the state.
Section 47 provides that all pledges of revenues, taxes, and assessments would be valid and binding from the time when the pledges are made. Physical delivery of revenues, taxes, and assessments pledged would not be necessary for a lien to be attached.

Section 48 provides that the authority would have the power to issue bonds in anticipation of the receipt of the proceeds of the public sale of such bonds.

Section 49 provides that the authority at any time would be authorized to obtain loans for paying any expenses or any costs incurred in connection with its projects. The board would determine the terms of the loans.

Section 50 provides that, at the discretion of the board, any issue of bonds could be secured by a trust agreement by and between the authority and a corporate trustee. Any bank or trust company incorporated under the laws of the state or the United States could furnish indemnifying bonds or pledge securities as may be required. Procedures for the administration of these provisions are specified.

Section 51 provides that bonds could be sold at public sale, after being advertised and publicly noticed, in blocks or installments at different times, or at one time. It also provides for the pricing of bonds.

Section 52 provides that bonds could be authorized by resolution of the board. The board by resolution could authorize the issuance of bonds, fix the aggregate amount of bonds to be issued, set rates of interest, determine the denomination of bonds issued in one or more series, set dates, determine the maturity which is not to exceed 40 years from issuance of said bonds, provide the medium of payment and other terms, and provide covenants and conditions including the establishment of reserves or other funds.

Section 53 provides that the board could issue interim certificates of certain definitive bonds. The board could also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

Section 54 provides that any bonds issued under the act, unless otherwise stated, would be fully negotiable instruments within the meaning and for all purposes of the law merchant and the laws of the state.

Section 55 provides that the board would be authorized to make provisions with respect to the defeasance of the right, title, and interest of the holders of any bonds and obligations.

Section 56 provides that the bonds of the authority would be legal investments or securities for savings banks, banks, trust companies, insurance companies, other fiduciaries, and political subdivisions of the state.

Section 57 provides that any resolution authorizing the issuance of bonds could contain such covenants as the board may deem advisable, necessary, or desirable for the security of the bond holders.

Section 58 provides that any bond issued by the authority would be incontestable in the hands of bona fide purchasers or holders for value, and would not be invalid because of any irregularity or defect in the proceedings for the issuance and sale. Prior to the issuance of any bonds, the authority would be required to publish notice.
Section 59 provides that the authority would have full and complete authority for the issuance of bonds, and that such bonds would not be backed by the full faith and credit of the state.

Section 60 provides that the board would have the discretion to invest funds of the authority in specific bonds, interest bearing obligations, and any investment authorized for insurers by ss. 625.306-625.316, F.S.

Section 61 provides that the fiscal year of the authority would be October 1 through September 30, unless otherwise determined by the board.

Section 62 provides that it is the intent of the Legislature, and it is the public policy of the state, that women, minorities, and socially and economically disadvantaged business enterprises be involved and utilized in all phases of the design, development, construction, maintenance, and operation of spaceports.

Section 63 provides a severance clause.

Section 64 provides that the Administration Commission and state agencies would have authority to adopt rules when necessary for procedural matters for review of plans and development orders for projects regarding the spaceport.

Section 65 provides an effective date.
Deletes provisions bestowing upon the authority all the powers, rights, and privileges of municipal corporations and independent special taxing districts. Removes authority's power to levy, assess, and collect maintenance and utility taxes.

Omits certain designated boundaries in Brevard and Volusia counties (the "Shiloh site") from property which would constitute spaceport territory.

Limits authority's right and power of eminent domain to actions deemed necessary to address public safety concerns of the authority.

Provides that personnel of the authority would not be within the state employment system, and that personnel policies would not be subject to state rules and regulations for state officials and employees.

Specifies that the budget, finances, expenditures, and appropriations of, and the general exercise of powers by, of the authority would not be subject to the approval of any state or local entity.

Limits power of the authority with respect to roads to require the authority to enter into an interagency agreement with the appropriate state or local government prior to assuming jurisdiction over any public road.

Omits exemption of the authority from county zoning and other regulations of any county, which would include county codes, ordinances, plans, regulations, and requirements for building and construction permits and licenses. Removes authority's power to regulate building codes within the spaceport territory.

Specifies that the authority would not be insured by the Department of Insurance, but would be authorized to obtain insurance to cover its buildings and properties, and to insure against its general liabilities.

Provides that the authority would be required to obtain required environmental permits in accordance with federal and state law. Removes all provisions relative to one-step certification process.

Provides that designation of additional launch site areas would require statutory amendment to the act.

Specifies that bonds issued by the authority are not secured by the full faith and credit of the state.
I. SUMMARY:

A. PRESENT SITUATION:

At this time there is not a Florida Spaceport Authority and Florida is not presently providing space launch facilities. Through a series of Presidential Directives and Orders, and the passage of the Commercial Space Launch Act of 1984, the U.S. Government endorsed the establishment of a commercial expendable launch vehicle industry. The Commercial Space Launch Act requires the U.S. Department of Transportation to facilitate and promote commercial space launches by the private sector.

B. EFFECT OF PROPOSED CHANGES:

As a public corporation The Spaceport Florida Authority (Authority) would be created to plan, develop, implement and promote Spaceport systems and projects. Among other activities the Authority's Board of Supervisors and Executive Director would be responsible for developing a business plan, negotiating with federal agencies for control of existing assets and property, and generally directing the administration of the commercialization
of space in Florida.

There will be established one or more residential high schools for academically talented students which have a curricular emphasis in mathematics and science. There will be created an 11 member Council on Residential Mathematics and Science Honors High Schools which will include the Commissioner of Education, who will serve as chairperson. Also, provides that each community college established pursuant to s. 240.3341 may provide incubator facilities to eligible small business concerns.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 provides for short title "Spaceport Florida Authority Act".

Section 2 provides legislative intent and for the creation of the Spaceport Florida Authority as a public corporation, body politic and subdivision of the state. This section also provides that the purpose and function of the Authority will be to plan, develop a strategy and implement the acceleration of commercial space related economic growth and educational development within the state. Additionally, it provides that the Authority may advise and cooperate with state and federal entities.

Section 3 provides definitions for the Authority, Board, bonds, complementary activity, cost, federal aid, landing area, launch pad, payload, person, project, range, recovery, spaceport, spaceport launch facilities, spaceport system, spaceport territory and spaceport user.

Section 4 provides for specific designated areas within Brevard and Gulf counties for Spaceport territories.

Section 5 provides for the powers of the Authority which include all powers granted under the Florida General Corporation Act, chapter 607, F.S.; to sue or be sued; adopt and use a corporate seal; review, develop business plan and report prior to 1990 Legislative Session; acquire property and other assets; sell or dispose of property and assets; make and execute any and all contracts; lease as lessor or lessee any facilities or property; appoint an executive director; own, acquire, construct, reconstruct, maintain and extend spaceport facilities and other space related systems including educational, cultural, parking facilities and space related initiatives; advertise; provide transportation equipment to meet the needs of the Authority; own and acquire power production and transmission facilities; purchase power for distribution; supply water and sewer systems, waste collection and disposal; and, operate new and experimental public utilities. The Authority shall not construct any system if one of similar character is being operated by a neighboring municipality or private company. Additionally, this section provides for the set aside of conservation areas; the establishment of insect control programs; the operation of water...
and flood control facilities; the hiring of a safety officer; the establishment of a personnel management system; the establishment of procedures and rules governing per diem and travel expenses; the development of research, experimentation, and development activities; the issuance of revenue bonds; bonds may be issued the first year not to exceed a total of 210 million dollars upon proper approval.

Section 6 provides that the Authority in coordination with the Florida Department of Transportation will develop and file the federal air space notification required for priority air space use.

Section 7 provides for the development of Cape San Blas Spaceport facility in accordance with the recommendation of the Spaceport Florida Feasibility Study and upon certain specific conditions.

Section 8 provides for seven regular members of the Board of Supervisors (Board) to be appointed by the Governor with confirmation by the Senate, and two ex officio non-voting legislative members, one of whom shall be selected by the President of the Senate and one of whom shall be selected by the Speaker of the House of Representatives. This section also provides for member background, qualifications, length of terms, minimum meeting requirements, and authority for member removal.

Section 9 provides for a treasurer to be designated who shall have charge of the funds of the Authority. The Board is to select depositories for the funds. A fiscal agent may be selected by the Board.

Section 10 provides powers for the board including the power to adopt bylaws, rules, resolutions and orders; maintain an office in close proximity to Kennedy Space Center; enter lands; execute contracts; establish departments, committees, or other agencies; appoint an executive director; examine tax roles; engage in planning; execute intergovernmental agreements; establish reserve funds; abide by all applicable federal labor laws in the construction and day-to-day operations of the authority and any spaceport activities; and prepare and submit annual reports.

Section 11 provides that the Authority shall have the power to exercise any of its rights, powers, privileges and authority in any and all portions of any Spaceport territory lying within the boundaries of any municipal corporation or other political subdivision.

Section 12 provides the power to construct, develop, furnish and operate projects within the Spaceport territory and to establish and collect fees, rentals and other charges.

Section 13 provides the power to build, control and maintain roads in accordance with established highway safety standards.

Section 14 provides that the Authority shall have the exclusive
power and authority to operate and regulate Spaceports in the state.

Section 15 provides that the Authority has the right to operate its projects across rights-of-way as long as just compensation, including fees, are paid for any private property taken or damaged by the exercise of such power.

Section 16 provides that the Authority shall have the power to establish, collect and revise fees for the use of Spaceport facilities and services. The rates must produce sufficient revenue to provide for all expenses of operation and maintenance. The Board shall have the Authority to enter into contracts for the use of the Authority's projects.

Section 17 provides that in the event any of the fees or charges owed to the Authority become delinquent or in default, the unpaid balance, interest accrued, and attorney's fees and costs may be recovered in a civil action.

Section 18 provides that in the event of non-payment of fees or charges, the Board shall have the power to discontinue services until such time that fees, rentals or charges are fully paid, together with interest and penalties. The Authority may enforce payment by suit in any court of competent jurisdiction or by any other lawful method of enforcement.

Section 19 provides that the Board may adopt, review, amend, supplement or repeal a comprehensive plan for the development of the area within any Spaceport as long as it is consistent with the Local Development Regulation Act. This section also prohibits any construction, alteration or removal of any building or structure within the Spaceport territory without first obtaining a permit from the Board or its designee.

Section 20 provides additional powers of the Board which include adopting regulations to prohibit or control pollution, to site utility lines, cables, pipes and ducts. Also, the Board may, at its discretion, divide the Spaceport territory into zones or districts.

Section 21 provides that the Authority may accept federal funds and aid or any other moneys and properties, either public or private for Authority use. The Authority will comply with applicable laws, rules and regulations for the expenditure of federal moneys upon such Spaceports and other facilities.

Section 22 provides authorization for governing bodies of municipalities to enter into and carry into effect contracts and agreements for the performance of any common function, powers and duties with the Authority. A central agency or common agent of the contracting parties may be authorized to do the same for the respective participants.

Section 23 provides for the authorization of cooperative
agreements between the Authority and the state, counties and municipalities for aid and cooperation in the making of loans, gifts, and/or grants to the Authority. Further authorized are cooperative agreements to provide basic services to the Authority which are necessary or desirable for the Spaceport. These agreements include fire and police protection for the Authority and those persons and property within the Spaceport territory. The Board may undertake and finance joint projects with municipalities. Any agreements shall not exceed 40 years.

Section 24 provides that the Authority shall have the power to make and enter all contracts and agreements necessary or incidental to the performance of the functions of the Authority. Further, the Authority may contract with and accept and receive grants or loans of money, material, or property from any person public or private as necessary. In connection with such contract grant or loan, the Authority may stipulate and agree to such covenants, terms, and conditions as the Board deems appropriate.

Section 25 provides that subsection (4) is added to section 206.42, Florida Statutes. Fuels used exclusively for space flight will be exempt from sales and motor fuel taxes.

Section 26 provides that subsections (23) and (24) are added to section 212.02, Florida Statutes, 1988 Supplement. "Spaceport activities" and "space flight" are added as definitions.

Section 27 repeals paragraph (c) of subsection (5) of section 212.06, F.S., which provides that it is not the intent of the chapter to levy taxes on any telecommunications or any associated launch vehicle.

Section 28 amends paragraph (b) of subsection (5) of section 212.08, Florida Statutes, 1988 Supplement is amended, and subsection (16) is added to said section. Provides sales, rental, use, consumption, distribution, and storage sales tax exemption for industrial machinery and equipment purchased for exclusive spaceport activities of new or expanding businesses. Provides specific tax exemptions for space related payloads and other components and systems intended for space flight.

Section 29 provides that the Authority shall obtain required environmental permits in accordance with federal and state law and also comply with chapter 380, Florida Statutes.

Section 30 provides that the records of the Authority or its users are public records except for any information which would reveal a trade secret as defined in section 812.081, F.S. Notice that the requested information will reveal a trade secret will be in writing by the Board.

Section 31 provides that the Authority has the power to apply to the federal government for a grant to allow the Spaceport territory to be a foreign trade zone.
Section 32 provides sovereign immunity to the Authority in the same manner and extent as the state under the Constitution of the State of Florida.

Section 33 provides that the Board may strike out or correct the description of any land within or claimed to be within the Spaceport territory upon the consent of the owners of all the land that would be included or excluded and of the owners of not less than the majority in acreage of all lands within any Spaceport. This section also provides for the enlargement of the Spaceport territory by written consent or by resolution of the Board which would be approved at a special election of the freeholders residing within the area to be annexed. Any lands added to a Spaceport territory shall be subject to, or exempt from, specific taxes and assessments as provided for in this Act. No electrical power shall be furnished unless the Authority offers to purchase from any person who is at the time in the business of providing electricity for sale within the annexed area. New launch site designations outside present Spaceport territories will be by statutory amendment.

Section 34 provides that the Board or any aggrieved person has recourse to remedies in law and equity as may be necessary.

Section 35 provides that the Authority does have limited power to issue revenue bonds during the first year. The Authority will submit to the legislature a portfolio of proposed bonding projects along with the business plan prior to the 1990 session. Subsequent to the legislative authorization, the issuance of revenue bonds may be secured by or payable from the gross or net pledge of revenues to be derived from any project or combination of projects, from the rates, fees, tolls, fares or other charges to be collected from the users of any projects.

Section 36 provides for the issuance of additional bonds if needed for the completion of a project.

Section 37 provides that the Board has the power to retire or refund any bonds or obligations of the Authority. Refunding bonds may be issued anytime when in the judgement of the Board such issuance is advantageous to the Authority.

Section 38 provides that the Authority may pledge any assessments, revenues or other funds and the Authority's full faith and credit as added security on bonds. Bonds issued by the Authority are not secured by the full faith and credit of the state.

Section 39 provides that all pledges of revenues and assessments shall be valid and binding from the time when the pledges are made. Physical delivery of revenues and assessments pledged is not necessary for a lien to be attached.

Section 40 provides that the Authority shall have the power to issue anticipation bonds after any bonds of the Authority have
been authorized in anticipation of the receipt of the proceeds of the public sale.

Section 41 provides that the Authority at any time may obtain loans for paying any expenses of the Authority or any costs incurred in connection with projects of the Authority. The Board will determine the terms of the loans.

Section 42 provides that, at the discretion of the Board, any issue of bonds may be secured by a trust agreement by and between the Authority and a corporate trustee. This section also provides that it will be lawful for any bank or trust company incorporated under the laws of the state or the United States to furnish indemnifying bonds or pledge securities as may be required. It further provides an outline of procedures for the administration of this section.

Section 43 provides that bonds may be sold at public sale after being advertised and publicly noticed in blocks or installments at different times, or at one time. It also provides for the pricing of bonds.

Section 44 provides that bonds may be authorized by resolution or resolutions of the Board which needs to be adopted by a majority of all of the members in office and at the bond adoption meeting which will be published and noticed. The Board by resolution may authorize the issuance of bonds; fix the aggregate amount of bonds to be issued; set rates of interest; determine the denomination of bonds issued in one or more series; set dates; determine the maturity which is not to exceed 40 years from issuance of said bonds; provide the medium of payment and other terms; and, provide covenants and conditions including the establishment of reserves or other funds. This section also provides for administrative matters concerning bonds.

Section 45 provides for interim certificate issuance of definitive bonds. The Board may also provide for replacement of any bonds which become mutilated, lost or destroyed.

Section 46 provides that any bonds issued under this act, unless otherwise stated, will be fully negotiable instruments within the meaning and for all purposes of the law of merchant and the laws of the state.

Section 47 provides that the Board may make such provisions with respect to the defeasance of the right, title, and interest of the holders of any bonds and obligations.

Section 48 provides that the bonds of the Authority are legal investments or securities for savings banks, banks, trust companies, insurance companies, other fiduciaries and political subdivisions of the state.

Section 49 provides that any resolution authorizing the issuance of bonds may contain such covenants as the Board may deem

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advisable, necessary or desirable for the security of the bond holders.

Section 50 provides that any bond issued by the Authority shall be incontestable in the hands of a bona fide purchaser or holder for value and will not be invalid because of any irregularity or defect in the proceedings for the issuance and sale. Prior to the issuance of any bonds the Authority shall publish notice. This section further provides for procedures to challenge the validity of obligations after publication.

Section 51 provides full authority for issuance of bonds and that this act constitutes full and complete authority for the issuance of bonds. Further, this section provides that the full faith and credit of the state will not secure bonds of the Authority.

Section 52 provides that the Board in its discretion may invest funds of the Authority in specific bonds, interest bearing obligations, and any investment authorized for insurers by ss. 625.306-625.316, F.S.

Section 53 provides for the fiscal year of the Authority to be October 1 through September 30 unless otherwise determined by the Board.

Section 54 provides that neither the Florida Fire Insurance Trust Fund or Florida Casualty Insurance Risk Management Trust Fund will insure the Authority and a loss prevention program will be implemented by the Authority.

Section 55 amends subsections (2), (3), (6), and (7) of section 768.28, Florida Statutes. Provides for that the Spaceport Authority waives sovereign immunity in tort actions and may not ask for the assistance of the Department of Insurance in the consideration, adjustment, and settlement of any claim under section 768.28, Florida Statutes.

Section 56 provides for up to three residential mathematics and science honors high school(s) operated by the State Board of Education (board) and creates the "Council on Residential Mathematics and Science Honors High Schools". It provides for the membership, appointments, terms, and reimbursement for per diem. The council will recommend and the board will designate initial sites for schools. The schools will serve eleventh and twelfth grade students and no more than 100 students per grade level per school. Students will be selected for enrollment in a school by a competitive application. No later than March 1, 1990, the council and the board will recommend to the President of the Senate and the Speaker of the House of Representatives, a level of funding sufficient to fund the schools. The council and the board will also examine the feasibility of incorporating tenth grade students into the school(s) and convey recommendations within the required report. It also provides rule making authority to the board necessary to implement this section.
Section 57 provides that each community college may provide incubator facilities to eligible small business concerns. Each community college that provides an incubator facility will also provide management, maintenance and other support personnel, equipment, and utilities for the incubator facility. Community colleges are encouraged to establish incubator facilities through which emerging small business supportive of Spaceport endeavors and other high technology enterprises may be served.

Section 58 provides that it is the intent of the Legislature, the public policy of the state, and a directive to the Authority that women, minorities, and socially and economically disadvantaged business enterprises be involved and utilized in all phases of the design, development, construction, maintenance, and operation of spaceports.

Section 59 provides that the Authority may on the effective date of this act exercise any and all powers granted pursuant to this act with respect to the Cape San Blas territory located in Gulf County. The authority will exercise such powers pursuant to this act with respect to the Spaceport territory located in Brevard County and any other proposed Spaceport territory or activity only pursuant to the approval of the 1990 Legislature of any statutory changes or legislative budget requests. Notwithstanding other provisions of this act the authority may authorize the launching of the low earth orbit rockets with a payload of less than 150 pounds in the Brevard territory if the project demonstrates economic feasibility and does not require bonding and can be accomplished without additional structural changes of existing launch facility in the Brevard territory.

Section 60 provides that the Administration Commission and state agencies have authority to adopt rules when necessary for procedural matters regarding the Spaceport activities.

Section 61 provides that provisions of this act shall be reviewed by the Legislature prior to October 1, 1995.

Section 62 provides that any section, clause, sentence, or provision of this act held to be inoperative, invalid, or unconstitutional shall not affect the validity or constitutionality of the remaining parts of the act.

Section 63 provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

   Indeterminate (see fiscal comments)
2. Recurring or Annualized Continuation Effects:
   Indeterminate (see fiscal comments)

3. Long Run Effects Other Than Normal Growth:
   Indeterminate (see fiscal comments)

4. Appropriations Consequences:
   Indeterminate (see fiscal comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   Indeterminate (see fiscal comments)

3. Long Run Effects Other Than Normal Growth:
   Indeterminate (see fiscal comments)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   Indeterminate (see fiscal comments)

2. Direct Private Sector Benefits:
   This bill should have a positive impact on Florida businesses
   and industries as it provides for economic growth. Incubator
   facilities for small business concerns may be established
   which should have a positive impact on emerging businesses
   and the stimulation of the private commercial space industry.

3. Effects on Competition, Private Enterprise, and Employment
   Markets:
   By creating the Spaceport Authority Residential Honors High
   Schools and incubator facilities there will be long term
   potential for encouraging economic growth in space related
   fields, more jobs and educational opportunities should be
   created.
D. FISCAL COMMENTS:

Tax exemptions are provided for space related industry and Spaceport activities. The impact of these tax credits provided in any given year is indeterminate. Commercial space activity at the state level is a new concept, the tax exemptions relate to new activities not presently generating state revenue.

This bill should have a positive impact on Florida businesses and industries as it has the potential for providing economic growth and the stimulation of the space industry and related development efforts.

Long range fiscal impact on local governments will include new infrastructure growth costs related to the expansion of space related industry around Spaceport territories.

III. LONG RANGE CONSEQUENCES:

The bill provides for Florida's economic growth in the space educational and business related areas, creating opportunities for businesses to develop, promoting economic stability, providing educational opportunities, attracting new job-producing industry, and strengthening Florida's position in the international marketplace.

The commercialization of space has the potential for providing a positive impact on the state's economy. It is generally a high tech industry which provides opportunities for the growth and expansion of existing state industries.

The Residential Mathematics and Science Honors High Schools will provide an opportunity for high school students to academically excel.

IV. COMMENTS:

The Spaceport concept is addressed in the Issues Conference Policy Statement under "Business Growth", page 4, section II, Formulating a Vision (B),(C),(D),(E); page 5, section III, Economic Development Strategies, (A) 3,4,7 and specifically 8; and, (C) 1, 2, 4, 7, 8. The education element is supported under Section IV "Education", page 7, which states that Florida's educational system needs to support economic development. A first-class educational system is necessary to attract, retain and support business. See also "Structural and Natural Resources", page 13, section I, Effective Environmental Protection, (A) 3,4. The commercialization of the space industry in Florida will help strengthen the economy and position of the state for the 21st Century by developing an integrated business structure around the Spaceport territories.

V. AMENDMENTS:

None
VI. SIGNATURES:

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