

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5009 PCB APC 13-02 Information Technology Governance

SPONSOR(S): Appropriations Committee, McKeel

TIED BILLS: HB 5011 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	24 Y, 0 N	Potvin	Leznoff

SUMMARY ANALYSIS

The bill abolishes the Agency for Enterprise Information Technology (AEIT) and establishes a successor agency, the Agency for State Technology (AST); authorizes a type two transfer of the Northwood Shared Resource Center (NSRC) and the Southwood Shared Resource Center (SSRC) to the AST and creates the state data center; amends the data center consolidation schedule; clarifies the role of the Florida Department of Law Enforcement in the handling of information technology security; and repeals several sections of law.

The bill:

- Establishes the AST and authorizes a type two transfer of all records and property, unexpended balances of appropriations, administrative authority, pending issues, and existing contracts of the AEIT to the AST; and nullifies all pending proceedings and rules adopted by the AEIT on the effective date of the bill.
- Creates the AST within the Executive Office of the Governor with the head of the agency being the Governor and Cabinet; and establishes an executive director of the AST who is the state's Chief Information Officer, appointed by the Governor and confirmed by the Cabinet and the Senate.
- Authorizes a type two transfer of the NSRC and the SSRC from the Department of Management Services to the AST and creates the state data center.
- Defines the duties and responsibilities of the AST to include developing and administering a comprehensive long-range plan, developing and implementing information technology architecture standards, developing a strategic business plan for implementing a successor financial and cash management system; and providing operational management and oversight of the state data center.
- Clarifies the role of the Florida Department of Law Enforcement's Cybercrime Office regarding suspected or confirmed information security threats, incidents, or breaches.
- Repeals sections of law relating to the establishment of AEIT, financial and cash management system task force, assignment of information technology, development and submission of AEIT work and implementation plans and policy recommendations, establishment of the NSRC and the SSRC as primary data centers, energy efficient standards for data centers, and statewide e-mail service.

The bill conforms to the proposed Fiscal Year 2013-2014 House General Appropriations Act which provides \$2,473,738 in general revenue funding for the establishment of the AST and \$61,126,867 in trust fund authority for the type two transfer of the NSRC and the SSRC to the AST. The net fiscal impact of the bill is \$625,872 in general revenue funding and \$1,624,001 in trust fund authority over Fiscal Year 2012-2013.

The bill is effective July 1, 2013, except as otherwise provided.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h5009.APC

DATE: 4/4/2013

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Agency for Enterprise Information Technology

Current Situation

In 2007, the Legislature created the Agency for Enterprise Information Technology (AEIT) to oversee policies for the design, planning, project management, and implementation of enterprise information technology services, to include information technology security.¹ The AEIT is administratively housed within the Executive Office of the Governor, with the Governor and Cabinet as the head of the agency.

The AEIT is required to:²

- Submit an annual work plan for approval by the Governor and Cabinet.
- Monitor the implementation, delivery, and management of the enterprise information technology services established in law.
- Make recommendations to the agency head and Legislature concerning other information technology services that should be designed, delivered, and managed as enterprise information technology services.
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services.
- Biennially publish a long-term strategic enterprise information technology plan.
- Perform duties related to enterprise information technology services including the state data center system and information technology security.
- Coordinate with the Division of Purchasing in the Department of Management Services (DMS) on the planning and acquisition of information technology products and work with the division in the establishment of best practices for procuring such products.
- Develop information technology standards.
- Submit a comprehensive transition plan for the consolidation of agency data centers into a primary data center.
- Annually provide the Legislature with recommendations for consolidating the purchase of information technology commodities and contractual services.

In 2008, specific duties and responsibilities pertaining to information technology security were assigned to the AEIT;³ but the Office of Information Security was still housed within the DMS. In 2009, the Office of Information Security was created within the AEIT,⁴ and 8 full-time equivalents (FTE) were transferred from the DMS budget to the AEIT in the Fiscal Year 2009-2010 General Appropriations Act.

In 2012, the Legislature passed House Bill 5011 which abolished the AEIT, created a successor agency, and amended several provisions of law relating to the AEIT. The Governor vetoed House Bill 5011 on April 20, 2012.

Effect of Changes

The bill repeals the section of law establishing the AEIT and creates a new section of statute that establishes the Agency for State Technology (AST). The bill:

- Authorizes a type two transfer of all records and property, unexpended balances of appropriations, administrative authority, pending issues, and existing contracts of the AEIT to the AST.
- Nullifies all pending proceedings and rules adopted by the AEIT on the effective date of the bill.
- Establishes the Governor and the Cabinet as the head of the AST.

¹ 2007-105, Laws of Florida.

² Section 14.204, Florida Statutes.

³ 2008-116, Laws of Florida.

⁴ 2009-80, Laws of Florida.

- Authorizes the AST to have an executive director who is the state's Chief Information Officer.
- Authorizes a type two transfer of the Northwood Shared Resource Center (NSRC) and the Southwood Shared Resource Center (SSRC) from the DMS to the AST.
- Creates the state data center and for Fiscal Year 2013-2014, defines the state data center to include the NSRC, the SSRC, and the Northwest Regional Data Center (NWRDC) for purposes of its state agency customers.

The bill provides duties and responsibilities for the AST that include:

- Developing and administering a comprehensive long-range plan for the state's information technology resources.
- Annually analyzing the total amount of information technology expenditures for the executive branch agencies.
- Developing and maintaining an inventory of information technology projects with total costs that exceed \$10 million.
- Developing and implementing information architecture standards.
- Developing and implementing project management standards.
- Providing operational management and oversight of the state data center.
- Developing and submitting to the Legislature a strategic business plan for implementing a successor financial and cash management system.

In comparison to the AEIT, the AST's duties are not as broad; rather they are focused more on strategic planning and policy implementation and those duties necessary to ensure that the state realizes the cost savings and efficiencies of the agency data center consolidations and identifying other opportunities for improving the delivery of information technology in the state.

Governance Structure of the Northwood and Southwood Shared Resource Centers

Current Situation

In 2008, the Legislature statutorily created the NSRC and the SSRC and required each center to be headed by a board of trustees as defined in s. 20.03, F.S.⁵ The board members are appointed by the agency head or chief executive officer of the centers' representative customer entities and serve at the pleasure of the appointing customer entity. The executive director of the AEIT is an advisor to the boards.

The boards of trustees are authorized to employ an executive director for the NSRC and for the SSRC, pursuant to s. 20.05, F.S., with the executive directors serving at the pleasure of the boards. The executive directors are responsible for the daily operations of the NSRC and the SSRC and for ensuring that the centers comply with all laws and rules governing their operations. The boards are responsible for establishing an annual performance evaluation process for the executive directors that includes each director being reconfirmed by the board biennially.

The duties and additional responsibilities of the boards of trustees pertaining to the management oversight of the centers are established in statute.⁶

In 2009, the Legislature clarified the appointment process for board members to be based on when an agency is scheduled to consolidate its agency data center or computing facility into either the NSRC or the SSRC.⁷ The revised process is based on the projected usage rate of the customer entity for the upcoming fiscal year. Agencies with a projected usage rate of 4 percent or greater during the fiscal year shall have one trustee on the board with the total number of votes for each trustee apportioned based upon the agency's share of the total usage.

⁵ 2008-116, Laws of Florida.

⁶ Sections 282.203(2) and (3), Florida Statutes.

⁷ 2009-80, Laws of Florida.

The NSRC and the SSRC are authorized to enter into memoranda of understanding with the agency where they are administratively located;⁸ the Fiscal Year 2012-2013 General Appropriations Act appropriates \$125,000 to both the NSRC and to the SSRC for the provision of certain administrative services provided by the DMS. Additionally, both the NSRC and the SSRC combined have approximately 41 administrative support staff.

Effect of Changes

The bill repeals the sections of law that establish the NSRC and the SSRC and authorizes a type two transfer of both the NSRC and the SSRC from the DMS to the AST. The bill establishes the state data center and for Fiscal Year 2013-2014 defines the state data center to include the NSRC, the SSRC, and the Northwest Regional Data Center (NWRDC) for purposes of its state agency customers. Except for the NWRDC, the AST is responsible for providing operational management and oversight of the state data center which includes:

- Appointing a director for the state data center.
- Approving all cost-recovery mechanisms and cost structures.
- Establishing appropriate operating policies for the state data center and its facilities.
- Monitoring the operation of the state data center.
- Recommending to the Legislature a schedule that identifies for each agency data center and computing facility not yet consolidated into the state data center a recommended date and facility location for its consolidation.

The director of the state data center is responsible for the daily operations of the center's facilities, establishment of operational procedures, and ensuring compliance with all applicable laws and rules. The section of statute authorizing the establishment of the boards of trustees is deleted.

The bill also requires the director of the state data center to establish a consolidated administrative support structure that is responsible for the provision of financial management, procurement, transactions involving real or personal property, human resources, and operational support for the state data center.

Agency Data Center Consolidations

Current Situation

The Legislature established the state data center system and required all agency data centers and computing facilities to be consolidated into a primary data center by 2019.⁹ Beginning December 1, 2009, and annually thereafter, the AEIT is directed to identify at least two agency data centers or computing facilities for consolidation into a primary data center.¹⁰

The Legislature initiated the first phase of data center consolidations in 2009 with proviso included in the Fiscal Year 2009-2010 General Appropriations Act. The AEIT submitted its *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019* report on December 23, 2010, which provided recommendations for the consolidation of all remaining agency data centers.

In 2011, the Legislature codified in statute the consolidation recommendations included in AEIT's December 23, 2010 report. In 2012, the Legislature amended the agency data center consolidation schedule and provided an exemption from data center consolidation to certain agencies.¹¹

Effect of Changes

The bill amends the agency data center consolidation schedule by:

⁸ Section 282.203(1)(k), Florida Statutes.

⁹ 2008-1116, Laws of Florida.

¹⁰ *Id.*

¹¹ 2012-142, Laws of Florida.

- Changing the state data center facility that the Fish and Wildlife Conservation Commission must consolidate into by July 1, 2013.
- Deleting the Department of Veterans' Affairs, Department of Legal Affairs, and the Department of Agriculture and Consumer Services' Agriculture Management Information Center in the Mayo Building and the Division of Licensing from the Fiscal Year 2013-2014 consolidation schedule.
- Deleting the consolidations scheduled in Fiscal Years 2014-2015 and 2015-2016.
- Exempting the regional traffic management centers and the office of toll operations of the Department of Transportation from data center consolidation.

The bill also requires the AST to recommend to the Legislature a new data center consolidation schedule that identifies for each agency data center and computing facility not yet consolidated into the state data center the recommended date and facility location for its consolidation.

Information Technology Security

Current Situation

Section 282.318, F.S., establishes information technology security as an enterprise information technology service as defined in s. 282.0041, F.S., and authorizes the AEIT to establish rules and guidelines for ensuring an appropriate level of security for all data and information technology resources for executive branch agencies. One specific duty performed by the AEIT was to receive notification and potentially address suspected or confirmed information technology security threats or incidents identified at the SSRC and the NSRC.

In 2012, the Legislature passed House Bill 5011 which abolished AEIT, created a successor agency, and funded the successor agency in the bill. The Governor vetoed House Bill 5011 on April 20, 2012, which resulted in the AEIT remaining in statute but without funding or staff.

In the absence of the AEIT, there was a need to address the issue of how suspected or confirmed information technology security threats or incidents at the NSRC and the SSRC would be handled. In September 2012, members of the Florida Department of Law Enforcement's (FDLE) Computer Crime Center teamed with other agencies to create the Cyber Intelligence Group (CIG) for the purpose of receiving cyber information, researching and analyzing such information, and forwarding it to the affected and interested parties. The FDLE has an agreement with the Multi-State Information Sharing and Analysis Center (MS-ISAC) to monitor and review state Internet traffic. The MS-ISAC analyzes information from that traffic, combined with intelligence from several other sources, and provides this information to the FDLE's Cybercrime Office when an issue requires action or investigation. The MS-ISAC monitors the NSRC and the SSRC and reports any suspected or confirmed information technology security threats or incidents to the FDLE for handling by the CIG.

Effect of Changes

The bill codifies in statute the procedures and protocol established by the CIG regarding the handling of suspected or confirmed information technology security threats or incidents at the NSRC and the SSRC and specifically clarifies the duties and responsibilities of the FDLE Cybercrime Office to include:

- Monitoring information technology resources and collecting and analyzing potential threats regarding potential cyber-security incidents.
- Investigating violations of state law pertaining to suspected or confirmed cyber-security incidents and assisting in their response and recovery.
- Providing security awareness training and information to state agency employees.

The bill also clarifies the role of the AST in the area of information technology security to include establishing rules, publishing guidelines, and developing and annually updating an enterprise information technology security strategic plan.

Repealed Sections of Law

Current Situation

Section 14.204, F.S., establishes the AEIT and defines the agency's duties and responsibilities.

Section 17.0315, F.S., establishes the financial and cash management system task force for purposes of developing a strategic plan for the successor financial and cash management system.

Section 282.0055, F.S., relates to the assignment of information technology and assigns the responsibility for the design, planning, project management, and implementation of enterprise information technology services for executive branch agencies to the AEIT. The supervision, design, delivery, and management of agency information technology remain the responsibility and control of the individual state agencies.

Section 282.0056, F.S., requires the AEIT to develop an annual work plan within 60 days after the start of a fiscal year that describes the activities that AEIT intends to undertake that fiscal year. The work plan must be presented at a public meeting and approved by the Governor and Cabinet and then submitted to the Speaker of the House of Representatives and the President of the Senate. The AEIT is allowed to amend the work plan as needed, subject to approval by the Governor and Cabinet.

At the August 16, 2011, meeting of the Governor and Cabinet, the AEIT requested approval of its Fiscal Year 2011-2012 Operational Work Plan; however, such approval was not provided by the Governor and the Cabinet at this meeting. The meeting agendas of the Governor and Cabinet subsequent to the August 16, 2011, meeting have not included a request for approval of this plan.¹²

Section 282.204, F.S., establishes the NSRC as a primary data center.

Section 282.205, F.S., establishes the SSRC as a primary data center.

Section 282.33, F.S., requires the AEIT by July 1, 2009, to define objective standards for measuring data center energy consumption and efficiency and calculating total cost of ownership of energy-efficient information technology products. Additionally, it requires AEIT beginning December 31, 2010, and every 3 years thereafter, to submit to the Legislature recommendations for reducing energy consumption and improving the energy efficiency of the primary data centers.

Section 282.34, F.S., establishes a statewide e-mail service that must be designed to meet the needs of all executive branch agencies.

Effect of Changes

Repeals the following sections of law:

- s. 14.204, F.S., relating to the establishment of the AEIT;
- s. 17.0315, F.S., relating to the financial and cash management system task force;
- s. 282.0055, F.S., relating to the assignment of information technology;
- s. 282.0056, F.S., relating to the development of work and implementation plans and policy recommendations;
- s. 282.204, F.S., relating to the establishment of the NSRC;
- s. 282.205, F.S., relating to the establishment of the SSRC;
- s. 282.33, F.S., relating to energy efficiency standards for data centers; and
- s. 282.34, F.S., relating to statewide e-mail service.

B. SECTION DIRECTORY:

¹² Florida Governor and Cabinet website: <http://www.myflorida.com/myflorida/cabinet>.

Section 1. Authorizes a type two transfer of the records and property; funds, trust funds, and unexpended balances of appropriations, allocations, and other funds; administrative authority; pending issues; and existing contracts of the Agency of Enterprise Information to the new Agency for State Technology. It also requires all equipment and assets purchased by the Agency for Enterprise Information Technology and transferred to the Department of Highway Safety and Motor Vehicles to be transferred to the Florida Department of Law Enforcement no later than July 31, 2013.

Section 2. Nullifies all pending proceedings and all adopted rules of the Agency for Enterprise Information Technology on the effective date of the bill.

Section 3. Authorizes a type two transfer of the Northwood Shared Resource Center from the Department of Management Services to the Agency for State Technology and requires all binding contracts or interagency agreements entered into by the Northwood Shared Resource Center or an entity or agent of the Northwood Shared Resource Center and any other agency, entity, or person to continue as binding contracts or agreement with the Agency for State Technology.

Section 4. Authorizes a type two transfer of the Southwood Shared Resource Center from the Department of Management Services to the Agency for State Technology and requires all binding contracts or interagency agreements entered into by the Southwood Shared Resource Center or an entity or agent of the Southwood Shared Resource Center and any other agency, entity, or person to continue as binding contracts or agreement with the Agency for State Technology.

Section 5. Repeals s. 14.204, F.S., relating to the Agency for Enterprise Information Technology.

Section 6. Creates s. 14.206, F.S., establishing the Agency for State Technology with the Governor and Cabinet as the head of the agency and defining the agency's duties and responsibilities.

Section 7. Amends s. 282.0041, F.S., by deleting obsolete definitions, creating a definition for the state data center, and amending existing definitions.

Section 8. Repeals s. 17.0315, F.S., relating to the financial and cash management system task force.

Section 9. Repeals s. 282.0055, F.S., relating to the assignment of information technology.

Section 10. Repeals s. 282.0056, F.S., relating to the development of work and implementation plans.

Section 11. Amends s. 282.201, F.S., by establishing the state data center and for Fiscal Year 2013-2014 defining the state data center to include the Northwood Shared Resource Center, the Southwood Shared Resource Center, and the Northwest Regional Data Center for purposes of its state agency customers; defining the duties and responsibilities of the state data center; modifying the agency data center consolidation schedule; and aligning terminology with changes made in s. 14.206, F.S.

Section 12. Amends s. 282.203, F.S., by defining the duties and responsibilities of the director of the state data center, defining the responsibilities of the state data center, and deleting the boards of trustees for the Northwood Shared Resource Center and the Southwood Shared Resource Center.

Section 13. Repeals s. 282.204, F.S., relating to the establishment of the Northwood Shared Resource Center as a primary data center.

Section 14. Repeals s. 282.205, F.S., relating to the establishment of the Southwood Shared Resource Center as a primary data center.

Section 15. Amends s. 282.318, F.S., by defining the information technology security duties and responsibilities of the Agency for State Technology, clarifying the responsibilities of agency heads in the administration of their agency's security program, and aligning terminology with changes made in s. 14.206, F.S.

Section 16. Repeals s. 282.33, F.S., relating to energy efficiency standards for data centers.

Section 17. Repeals s. 282.34, F.S., relating to the statewide e-mail service.

Section 18. Amends s. 943.0415, F.S., by defining the duties and responsibilities of the Florida Department of Law Enforcement's Cybercrime Office pertaining to cyber-security to include information technology security.

Section 19. Amends s. 110.25, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 20. Amends s. 215.322, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 21. Amends s. 287.057, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 22. Amends s. 445.011, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 23. Amends s. 445.045, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 24. Amends s. 668.50, F.S., aligning terminology with changes made in s. 14.206, F.S.

Section 25. Amends s. 1004.649, F.S., by clarifying that for Fiscal Year 2013-2014 the Northwest Regional Data Center is included as a facility in the state data center for purposes of its state agency customers, and aligning terminology with changes made in s. 14.206, F.S.

Section 26. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS:

The bill conforms to the proposed House of Representatives' Fiscal Year 2013-2014 General Appropriations Act which appropriates:

- \$2,074,610 in general revenue funding and 21.00 FTE for the creation of the State Technology/Chief Information Officer budget entity within the Agency for State Technology;
- \$250,000 in general revenue funding to the Data Center Administration budget entity for the completion of a disaster recovery study;

- \$61,126,867 in trust authority for the type two transfer of the Northwood Shared Resource Center and Southwood Shared Resource Center to the Agency for State Technology; and
- \$149,128 in general revenue funding to the Florida Department of Law Enforcement for their increased duties and responsibilities pertaining to information technology security.

Under the newly created Agency for State Technology, cost savings have been achieved by collapsing the administrative functions of the Northwood and Southwood Shared Resource Centers into one data center administrative entity. By combining these functions, a reduction of 6.00 FTE and \$845,117 can be realized. These savings have been incorporated into the proposed Fiscal Year 2013-2014 House of Representatives' General Appropriations Act.

The bill amends the agency data center consolidation schedule for Fiscal Year 2013-2014, which conforms to the proposed House of Representatives' Fiscal Year 2013-2014 budget, by making a number of statewide adjustments to appropriations in the various agencies impacted by data center consolidations. These statewide adjustments decreased general revenue funds by (\$584,512) and decreased trust funds by (\$999,907); for a net decrease of (\$1,584,419).

DEPARTMENT	GENERAL REVENUE	ALL TRUST FUNDS	
AGENCY/HEALTH CARE ADMIN		(\$92,051)	
AGENCY/PERSONS WITH DISABL	(\$24,598)	(\$105,693)	
BUSINESS/PROFESSIONAL REG		\$98,489	
CITRUS, DEPT OF		(\$39)	
ECONOMIC OPPORTUNITY	(\$4,976)	(\$281,578)	
EDUCATION, DEPT OF	(\$147,224)	(\$571,317)	
ELDER AFFAIRS, DEPT OF		\$11,024	
FINANCIAL SERVICES		(\$43,604)	
FISH/WILDLIFE CONSERV COMM		\$222,357	
GOVERNOR, EXECUTIVE OFFICE	\$108,035	(\$35,508)	
HEALTH, DEPT OF		\$470,352	
HIWAY SAFETY/MTR VEH, DEPT		(\$611,640)	
JUSTICE ADMINISTRATION	(\$1,653)		
LEGAL AFFAIRS/ATTY GENERAL	(\$367)		
LOTTERY, DEPARTMENT OF THE		(\$75,725)	
MANAGEMENT SRVCS, DEPT OF	\$13,013	\$81,068	
PUBLIC SERVICE COMMISSION		\$15,953	
REVENUE, DEPARTMENT OF	(\$470,357)	(\$76,687)	
STATE, DEPT OF	(\$15,450)		
TRANSPORTATION, DEPT OF		(\$5,308)	
UNIVERSITIES, DIVISION OF	(\$39,579)		
VETERANS' AFFAIRS, DEPT OF	(\$1,356)		
Grand Total	(\$584,512)	(\$999,907)	NET: (\$1,584,419)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES