

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

**BILL #:** HB 7073

**FINAL HOUSE FLOOR ACTION:**

**SPONSOR(S):** Appropriations Committee, McKeel

116 Y's

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**COMPANION  
BILLS:** CS/SB 928

**GOVERNOR'S ACTION:** Approved

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**SUMMARY ANALYSIS**

HB 7073 passed the House on March 12, 2014, and subsequently passed the Senate on May 2, 2014. The bill establishes an enterprise information technology (IT) governance structure within the executive branch and specifically:

- Creates the Agency for State Technology (AST) within the Department of Management Services (DMS) and establishes an executive director of the agency who is appointed by the Governor and confirmed by the Senate.
- Establishes eleven other positions within the AST to include a deputy executive director, a chief planning officer, six strategic planning coordinators, a chief operations officer, a chief information security officer, and a chief technology officer.
- Authorizes a type two transfer of all records, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 71A-1 and 71A-2, Florida Administrative Code, pending issues, and existing contracts of the Agency for Enterprise Information Technology (AEIT) to the AST.
- Authorizes a type two transfer of the Northwood and Southwood Shared Resource Centers from the DMS to the AST and creates the state data center.
- Defines the duties and responsibilities of the AST to include:
  - developing and implementing IT architecture standards,
  - establishing IT project management and oversight standards,
  - performing project oversight on IT projects with total costs of \$10 million or more, except for cabinet agencies,
  - performing project oversight on any cabinet agency IT project that impacts another agency and has a total project cost of \$50 million or more,
  - providing operational management and oversight of the state data center,
  - identifying opportunities for standardization and consolidation of IT services that support common business functions, and
  - recommending additional consolidations of agency data centers or computing facilities.
- Establishes the Technology Advisory Council within the AST and defines the council's membership.
- Clarifies the IT security duties of the AST, individual agencies, and the Florida Department of Law Enforcement's Cybercrime Office.
- Requires the AST to conduct studies and provide recommendations on managing state government data, improving IT security, and consolidating and streamlining the operational processes of the state data center.
- Repeals sections of law relating to the AEIT, the Northwood and Southwood Shared Resource Centers; energy efficient standards for data centers; and statewide e-mail service.

The bill appropriates \$4,810,994 and 27 full-time equivalent positions for Fiscal Year 2014-2015.

The bill was approved by the Governor on June 20, 2014, ch. 2014-221, L.O.F., and became effective on July 1, 2014.

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

**STORAGE NAME:** h7073z1.APC

**DATE:** July 9, 2014

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF 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 (IT) services, to include IT security.<sup>1</sup> 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:<sup>2</sup>

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

In 2008, specific duties and responsibilities pertaining to IT security were assigned to the AEIT;<sup>3</sup> but the Office of Information Security was still housed within the DMS. In 2009, the Office of Information Security was created within the AEIT,<sup>4</sup> and 8.00 full-time equivalents 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; the effect of the veto was that AEIT remains in statute but is without funding and staff.

##### **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, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 71A-1 and 71A-2, Florida Administrative Code (FAC), pending issues, and existing contracts of the AEIT to the AST.

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<sup>1</sup> 2007-105, Laws of Florida.

<sup>2</sup> Section 14.204, Florida Statutes.

<sup>3</sup> 2008-116, Laws of Florida.

<sup>4</sup> 2009-80, Laws of Florida.

- Except for those rules in chapters 71A-1 and 71A-2, FAC, nullifies all pending proceedings and rules adopted by the AEIT on the effective date of the bill.
- Authorizes the AST to have an executive director who is the state's chief information officer, appointed by the Governor and confirmed by the Senate.
- Establishes eleven other positions within the AST to include a deputy executive director, a chief planning officer, six strategic planning coordinators, a chief operations officer, a chief information security officer, and a chief technology officer.
- Establishes the Technology Advisory Council within the AST for purposes of making recommendations to the executive director and defines the council's membership.
- 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.
- Establishes the state data center which is comprised of the data center facilities located at the NSRC and the SSRC.

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

- Developing and publishing IT policy for management of the state's IT resources.
- Developing and implementing IT architecture standards.
- Establishing project management and oversight standards for use by state agencies.
- Performing project oversight on IT projects with total costs of \$10 million or more.
- Providing operational management and oversight of the state data center to include:
  - Implementing industry standards and best practices for data center facilities, operations, maintenance and management processes.
  - Developing and implementing cost-recovery mechanisms that must comply with all applicable state and federal regulations.
  - Developing and implementing operating guidelines and procedures.
  - Annually conducting a market analysis to determine whether the state's approach to the provision of data center services is still in the best interest of the state.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- Performing project oversight on any cabinet agency IT project that has a total project cost of \$50 million or more and impacts another agency or agencies.
- Conducting annual assessments of state agencies to determine their compliance with all IT standards and guidelines developed by the AST.

The AST is also tasked with:

- Conducting a feasibility study that analyzes, evaluates, and provides recommendations for managing state government data. The study must be completed and submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 1, 2015.
- Contracting with a third party consulting firm to complete a risk assessment of information technology security that analyses and provides recommendations for protecting the state's information, data, and information technology resources. The assessment must be completed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2015.
- Completing an operational assessment of the state data center that focuses on standardizing operational processes and identifying duplication of any staff resources. The assessment and any recommendations for the reorganization of the state data center must be completed by February 1, 2015, and submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The bill establishes the Technology Advisory Council within the AST pursuant to s. 20.052, F.S. The council is comprised of seven members; four members are appointed by the Governor, two of whom

must be from the private sector; and one member each is appointed by the President of the Senate, the Speaker of the House of Representatives, and the Cabinet. All appointments are 4-year terms. The council may make recommendations to the executive director of the AST on matters pertaining to enterprise IT policies, standards, services and architecture. The executive director of the AST must consult with the council with regard to executing AST's duties that relate to statewide IT strategic planning and policy.

The bill requires the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services to adopt the information technology architecture, project management and oversight, and reporting standards established by the AST or adopt alternative standards based on best practices and industry standards.

## **Agency Data Center Consolidations**

### **Current Situation**

In 2008, the Legislature established the state data center system that includes all primary data centers, and that provides an enterprise IT service as defined in s. 282.0041, F.S.<sup>5</sup> As stated in statute, the intent is for all agency data centers and computing facilities to be consolidated into a primary data center by 2019.<sup>6</sup> Beginning December 1, 2009, and annually thereafter, the AEIT was directed to identify at least two agency data centers or computing facilities for consolidation into a primary data center.<sup>7</sup>

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 and directed the AEIT to provide to the Governor and the Legislature by October 1<sup>st</sup> of each year any recommended changes relating to the schedule.<sup>8</sup>

In 2012, the Legislature amended the agency data center consolidation schedule and provided an exemption from data center consolidation to certain agencies.<sup>9</sup> Additionally, the Implementing Bill for the Fiscal Year 2013-2014 General Appropriations Act<sup>10</sup> modifies the data center consolidation schedule in s. 282.201(4), F.S.

Agencies scheduled for consolidation are required to submit a transition plan to the appropriate primary data center and the AEIT by July 1<sup>st</sup> of the fiscal year before the fiscal year the scheduled consolidation will occur. Additionally, each primary data center must submit a transition plan to the AEIT, Executive Office of the Governor, and the chairs of the legislative appropriations committees for absorbing the transfer of agency data center resources into their data center. State agencies are required to execute a new or update an existing service-level agreement within 60 days after the specified consolidation date.

### **Effect of Changes**

The bill amends the agency data center consolidation schedule by:

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<sup>5</sup> 2008-116, Laws of Florida.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> 2011-50, Laws of Florida.

<sup>9</sup> 2012-142, Laws of Florida.

<sup>10</sup> 2013-41, Laws of Florida.

- Deleting obsolete consolidation dates.
- Deleting consolidations scheduled in Fiscal Years 2014-2015 and 2015-2016.
- Exempting the Department of Transportation's regional traffic management centers and the office of toll operations from data center consolidation.

The bill also deletes the requirement for primary data centers to submit transition plans and clarifies that state agencies must execute a new or update an existing service-level agreement within 60 days after the commencement of the services at the state data center.

## **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.<sup>11</sup> 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.

Both 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 NSRC and the SSRC 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.<sup>12</sup>

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.<sup>13</sup> 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.

The NSRC and the SSRC are authorized to enter into memoranda of understanding with the agency where they are administratively located;<sup>14</sup> the Fiscal Year 2013-2014 General Appropriations Act appropriates \$125,000 to both the NSRC and the SSRC for the provision of the administrative services provided by the DMS. Additionally, both the NSRC and the SSRC combined have approximately 61.25 administrative support staff positions<sup>15</sup>.

### **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 within the AST to provide data center services that are either hosted on premises or externally through a third-party provider. The state data center must comply with all applicable state and federal laws, regulations and policies. The state data center's duties include:

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<sup>11</sup> 2008-116, Laws of Florida.

<sup>12</sup> Sections 282.203(2) and (3), Florida Statutes.

<sup>13</sup> 2009-80, Laws of Florida.

<sup>14</sup> Section 282.203(1)(k), Florida Statutes.

<sup>15</sup> Spreadsheets provided by the NSRC and the SSRC that identify total number of administrative overhead positions.

- Entering into service level agreements with each customer entity.
- Developing and implementing a business continuity plan and a disaster recovery plan and annually conducting a live exercise of each plan.
- Maintaining the performance of the state data center.
- For purposes of chapter 273, being the custodian of resources and equipment consolidated and located within the state data center.
- Assuming administrative access rights to resources and equipment consolidated into the state data center.

The section of statute authorizing the establishment of the boards of trustees is repealed.

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.

## **Information Technology Security**

### **Current Situation**

Section 282.318, F.S., establishes IT security as an enterprise IT 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 IT resources for executive branch agencies. Additionally, to assist the AEIT in carrying out its IT security responsibilities, each agency head must designate an information security manager to administer the security program of the agency. As part of this program, each state agency must (1) annually submit to the AEIT its strategic and operational information security plans that must be developed pursuant to the guidelines established by the AEIT and (2) conduct and update every three years a comprehensive risk analysis to determine the security threats to the data, information and IT resources of the state agency.

One specific duty performed by the AEIT was to receive notification and potentially address suspected or confirmed IT 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 IT 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 IT 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 IT security threats or incidents at the state data center and specifically clarifies the duties and responsibilities of the FDLE Cybercrime Office to include:

- Monitoring IT 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 generally replaces the AEIT with the AST in regards to existing IT security duties. The bill supplements existing duties to require the AST to publish, for use by state agencies, an IT security framework that includes a risk assessment methodology, protection procedures, threat detection, data recovery, procedures for limiting unauthorized access to IT resources, and establishing asset management procedures.

Additionally, the bill requires the agency head-designated information security manager to report directly to the agency head for purposes of carrying out his/her IT security duties and clarifies the eligible recipients of IT security audits, policies and procedures, and risk assessments.

## Information Technology Procurement

### Current Situation

Current statute<sup>16</sup> authorizes the AEIT to assist the DMS with using aggregate buying methodologies whenever possible and with procurement negotiations for hardware and software products and services in order to improve the efficiency and reduce the cost of IT services.

Section 287.056, F.S., requires state agencies to purchase commodities and contractual services from purchasing agreements established and state term contracts procured, pursuant to s. 287.057, F.S., by the DMS. State agencies are authorized to use a request for a quote to obtain written pricing or services information from a state term contract vendor for commodities and contractual services available on state term contract from that vendor.

Current the DMS has executed seven different state term contracts in the "IT Hardware and Software" category<sup>17</sup> as follows:

Number	Name	Start Date	End Date
250-000-09-1	Network Infrastructure-Equipment and Services	09/07/2008	09/07/2014
252-001-09-1	Microsoft License, Maintenance and Services	03/31/2009	03/30/2015
252-500-09-1	Mainframe and Other Software	05/13/2009	05/12/2017
600-000-11-1	Multifunction Products, Printers, Facsimile Equipment, Scanners, Related Software, Supplies and Services	08/03/2010	08/020/2014
680-370-07-1	Live Capture Electronic Fingerprinting Equipment	11/28/2007	05/28/2014
880-000-09-1	Audio & Video Equipment and Accessories	02/18/2009	02/17/2015
991-268-11-1	IT Disaster Recovery Services	08/09/2010	08/08/2015

Each of the seven different state term contracts listed above have multiple contractors, i.e., the Network Infrastructure-Equipment and Services state term contract has 27 contractors.

<sup>16</sup> Section 14.024(3)(g), Florida Statutes.

<sup>17</sup> [http://www.dms.myflorida.com/contract\\_search?postBack=true](http://www.dms.myflorida.com/contract_search?postBack=true)

The DMS also has executed the following state term contract in the “IT consultant” category<sup>18</sup> that has over 275 contractors.

Number	Name	Start Date	End Date
973-561-10-1	Information Technology (IT) Consulting Services	09/14/2009	08/31/2014

### **Effect of Changes**

The bill requires the AST to advise and collaborate with the DMS in conducting competitive solicitations for state term contracts for IT commodities, consultant services or staff augmentation contractual services.

The bill establishes a new section of law that requires all state term contracts for:

- IT commodities executed after July 1, 2014, to have a term that does not exceed 48 months.
- IT consultant services or staff augmentation contractual services executed after September 1, 2015, to have a term that does not exceed 48 months.

The DMS may execute a state term contract for IT commodities, consultant services, or staff augmentation contractual services that exceeds the 48-month requirement if the secretary for the DMS and the executive director of the AST certify to the Executive Office of the Governor that a longer contract term is in the best interest of the state.

### **Repealed Sections of Law**

#### **Current Situation**

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

Section 282.0055, F.S., relates to the assignment of IT and assigns the responsibility for the design, planning, project management, and implementation of enterprise IT 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.

Section 282.203, F.S., establishes the duties of the primary data centers and authorizes that each center shall be headed by a board of trustees as defined in s. 20.03, F.S.; also defines the membership of each board of trustees and its duties.

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,

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<sup>18</sup>[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/state\\_contracts\\_and\\_agreements/state\\_term\\_contracts/information\\_technology\\_it\\_consulting\\_services](http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_and_agreements/state_term_contracts/information_technology_it_consulting_services)



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. 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. 282.203, F.S., relating to the establishment of the primary data centers;
- 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.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: See Fiscal Comments
2. Expenditures: See Fiscal Comments

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None
2. Expenditures: None

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill limits the term of state term contracts for information technology commodities, consultant services, or staff augmentation contractual services.

### **D. FISCAL COMMENTS:**

The bill appropriates \$4,810,994 and 27 full-time equivalent positions for Fiscal Year 2014-2015. This total appropriation includes:

- \$3,563,573 in recurring general revenue funds and \$1,095,005 in nonrecurring general revenue funds and 25 full-time equivalent positions and associated salary rate of 2,083,482 to the Agency for State Technology for purposes of implementing its assigned duties, responsibilities, and functions.
- \$144,870 in recurring general revenue funds and \$7,546 in nonrecurring general revenue funds and 2 full-time equivalent positions and associated salary rate of 93,120 to the Florida Department of Law Enforcement for purposes of implementing additional information technology duties of the department's Cybercrime Office.

