HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7195 PCB STA 06-04 Agency Planning and Accountability
SPONSOR(S): State Administration Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: State Administration Appropriations Committee	8 Y, 0 N	Belcher	Belcher
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill creates s. 216.242, F.S., to require state agencies, prior to the obligation of state funds for outsourcing initiatives, to develop a business case, including, but not limited to, baseline cost, a cost-benefit analysis, performance measures, end-of-term transition plan and strategy, risk analysis, and contingency plans in the event of vendor non-performance. The bill also requires a contracting state agency to immediately report, to specific legislative appropriations committees, vendor violations, or suspected violations, of the terms of any outsourcing agreement greater than $10 million, annually. The bill provides a budgetary disincentive to any state agency that violates this provision through a suspension of the agency's delegated budget transfer flexibility as authorized in section 216.292 (2), F.S., until such delegation is restored by the Legislative Budget Commission.

The bill creates s. 216.1771, F.S., to provide a budgetary disincentive to state agencies that fail to comply with the mandates contained in proviso language in General Appropriations Acts. All unexpended appropriations addressed by the proviso would be placed in budget reserve status by the Executive Office of the Governor and the state agency would be subject to the immediate loss of delegated budget transfer flexibility as authorized in section 216.292 (2), F.S., until such budget and / or transfer delegation is restored by the Legislative Budget Commission.

The bill has no measurable fiscal impact; however, improved planning methods by state agencies should have a favorable cost impact on state financial resources.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Outsourcing State Programs and Functions

As the state has increasingly shifted to external provision of services, it has occasionally experienced challenges in ensuring that the desired results are achieved. Recent studies and audits have suggested that the state's planning of large, complex initiatives could be improved.

Various reports by the Auditor General identified problems. For example:

- In the MyFloridaAlliance initiative of the State Technology Office (STO) involving outsourcing multiple functions, the STO had not conducted full feasibility studies, cost analyses, or risk assessments to determine if the outsourcing of these functions would provide the best value to the state. Additionally, the information provided in the solicitation documents did not provide sufficient detail about STO operations, services, and needs to allow for a responsible vendor to adequately respond to the listed key initiatives. The contracts with Accenture and BearingPoint lacked certain provisions to adequately protect state resources. The STO subsequently cancelled the contracts.
- In the Department of Management Services' procurement of the MyFloridaMarketplace electronic procurement system, the department planning process did not include timely completion of a cost-benefit or risk analysis.
- In the Department of Business and Professional Regulation's On-line Licensing and Call Center Services procurement, the department did not perform a feasibility study for the procurement's Application Management Services component. Additionally, the contract, which is funded through a shared-savings model, failed to provide specifics about how to define and share savings.

The bill creates s. 216.242, F.S., to require state agencies, prior to the obligation of state funds for outsourcing initiatives, to develop a business case, including, but not limited to, baseline cost, a cost-benefit analysis, performance measures, end-of-term transition plan and strategy, risk analysis, and contingency plans in the event of vendor non-performance. The bill also requires a contracting state agency to immediately report, to specific legislative appropriations committees, vendor violations, or suspected violations, of the terms of any outsourcing agreement greater than $10 million, annually. The bill provides a budgetary disincentive to any state agency that violates this provision through a suspension of the agency's delegated budget transfer flexibility as authorized in section 216.292 (2), F.S., until such delegation is restored by the Legislative Budget Commission.

Appropriations Acts, Proviso Compliance

The General Appropriations Act contains proviso mandating agencies to take certain actions associated with the funds provided in specific appropriations of the act. Occasionally, an agency does not adhere to the provisions of the language. For example, in the current fiscal year, the Department of Management Services was directed to adhere to the following proviso in specific appropriation 2085A, Chapter 2005-70, Laws of Florida, General Appropriations Act.

2085A LUMP SUM
STATE BUILDING RENTAL INCREASE
FROM GENERAL REVENUE FUND 3,152,114
FROM TRUST FUNDS 3,152,115

Funds in Specific Appropriation 2085A are provided to implement increases in the state office-space rental rates in the Florida Facilities Pool. Implementation of the rate increases and distribution of funds to user agencies are contingent upon the completion of a detailed report, by the Department of Management Services, on the facilities pool and the department's Workspace Management Initiative. At a minimum, the report must: (1) provide an overview of the facilities pool assets and debt, capital deficiencies, rental revenues, and operations and maintenance costs; (2) address any proposed actions or recommendations to increase the occupancy rate in the pool, to reduce operation and maintenance costs, and to restructure or reduce bonded debt; and (3) address the anticipated impact the workspace initiative will have on the facilities pool, state agencies, and state funding. The department must submit the report to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee, and the chair of the House Fiscal Council by August 15, 2005, and subsequently provide quarterly updates on both the facilities pool and the workspace initiative.

The department did not file the required report timely and did not fully comply with provision (3) of the proviso. Also related to that Act, the same agency failed to timely comply with proviso immediately proceeding specific appropriation 2747, requiring the submission of a data center rate report with specific criteria to the Executive Office of the Governor, the Senate Ways and Means Committee, and the House Fiscal Council.

The bill creates s. 216.1771, F.S., to provide a budgetary disincentive to state agencies that fail to comply with the mandates contained in proviso language in General Appropriations Acts. All unexpended appropriations addressed by the proviso would be placed in budget reserve status by the Executive Office of the Governor and the state agency would be subject to the immediate loss of delegated budget transfer flexibility as authorized in section 216.292 (2), F.S., until such budget and / or transfer delegation is restored by the Legislative Budget Commission.

C. SECTION DIRECTORY:

Section 1: Creates s. 216.1771, F.S., providing budgetary disincentives to state agencies for failure to comply with proviso mandates contained in a General Appropriations Act.

Section 2: Creates s. 216.242, F.S., providing legislative intent; requiring state agencies to develop business cases prior to obligating state funds; requiring state agencies to report certain contracting violations to the Legislature; and providing budgetary disincentives to state agencies for failure to comply with the section.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See D. 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 has no measurable fiscal impact; however, improved planning methods by state agencies should have a favorable cost impact on state financial resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES