

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7255 PCB SPT 06-02 Information and Technology Management
SPONSOR(S): Spaceport & Technology Committee
TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Spaceport & Technology Committee	6 Y, 0 N	Saliba	Saliba
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
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SUMMARY ANALYSIS

The bill assigns the Department of Management Services (DMS) responsibility for statewide communications systems and services, wireless communications systems and services, the Shared Resource Center, and data security services. These duties are currently assigned to the State Technology Office (STO). The bill creates the Office of Information Security (OIS) in DMS.

The bill repeals Part II of Chapter 282, F.S., related to commerce protection.

The bill authorizes seven positions and appropriates \$750,000 from General Revenue for fiscal year 2006-2007 to DMS for the operation of the OIS.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill transfers duties and responsibilities from the STO to DMS for statewide communications, data center, wireless communications, and security services. The bill creates the Office of Information Security (OIS) in DMS. It authorizes seven positions and appropriates \$750,000 from General Revenue for this purpose.

Maintain public security – The bill directs the OIS to work with all branches of government to ensure the security of agency and enterprise information, data, and systems.

B. EFFECT OF PROPOSED CHANGES:

Background

More than half of all Americans contact the government in a given year. Of those, almost 75% are internet-connected.¹ Online connectivity has many appeals. It offers expanded information flow between government and citizen, it helps citizens conduct business with government, and it makes it possible for citizens to fire off a missive to express their views about policies or problems.²

Florida, like other states, has responded to the demand for technology service venues. Information technology (IT) has fueled improved government service delivery and efficiency. It has also been scrutinized for its part in major business process reengineering (BPR) projects and outsourcing. A major portion of a BPR project's cost stems from investment in IT infrastructure, products, and services. However, IT remains an essential tool for government to meet citizens' demand for electronic business transactions, services, and information.

During the 2000 Session, the Legislature adopted SB 1334 (Ch. 2000-164, LOF), establishing the foundation for many online or electronic government transactions. The State Technology Office (STO) was also created to foster a centralized and coordinated approach to e-government implementation. Responsibility for operating statewide communications systems and services, wireless communications systems and services, and the Shared Resource Center were transferred from DMS to the STO.

The following session, the Legislature adopted HB 1811 (Ch. 2001-261, LOF), expanding the authority and responsibility of the STO. The bill established a central framework for IT governance, provided for establishment of standards, management, and system deployment. IT resources, such as staff, hardware, and system development, remained within the agencies with agency heads directed to complete technology transactions in consultation with the STO. Full implementation of the bill required submission of a budget amendment to the Legislative Budget Commission. An amendment was submitted and later withdrawn, leaving the structure partially implemented. The statute has remained unchanged since that time.

Florida spends almost \$2.0 billion a year on IT infrastructure, products, systems, and services.³ The magnitude of IT expenditures warrants accountability of its performance and value. In current frameworks, IT costs are explicit, but value can be elusive to define and quantify.⁴ Additionally, inadequate visibility into IT funding drives the perception of IT as a large, expensive cost center that

¹ John B. Horrigan, "How Americans Get in Touch with Government," Pew Internet & American Life, May 24, 2004.

² Ibid.

³ Pew Internet & American Life and estimate based on actual expenditures for FY 2003-2004.

⁴ John Roberts, "Find the 'Sweet Spot' for IT Governance, Strategy, and Value," Gartner, Inc., August 25, 2005.

can be easily cut.⁵ A governance framework which provides clear objectives, best practices, and clearly assigned duties can bridge this disconnect.

The Year 2000 (Y2K) computer date problem is traced back to the early days of computers and computer programming. To alleviate storage and memory expense, programmers utilized two-digit date codes rather than four to represent the year in a data field. As the year 2000 approached, it became evident that most programming code would recognize “00” as the year 1900. To alleviate the problem, the state initiated the Y2K Task Force and a Y2K Project Office to correct this problem in existing computer systems.

In addition to raising numerous technological issues, Y2K raised a wide variety of legal issues. To stave off potentially expensive and extensive litigation, the Legislature adopted SB 80 (Ch. 1999-203, LOF) creating the “Commerce Protection Act.” The Act established remedies for damages, set date sensitive limitation for actions under the act, provided immunity from liability for business directors and officers, and provided for dispute resolution. Given the State’s coordinated response to Y2K, state agencies did not suffer any major set backs.

Present Situation

The Governor’s Proposed FY 2005-06 Budget recommended transfer of responsibility for operating statewide communications systems and services, wireless communications systems and services, the Shared Resource Center, and data security services from the STO back to DMS. These duties are statutorily-assigned; therefore reassignment requires substantive legislation to enact.

During the 2005 Legislative Session, the Spaceport & Technology Committee introduced HB 1927 – Information Technology Management. Senate Bill 1494 was later substituted for HB 1927. The bill established a framework to support IT governance, decision management, project management, and investment control. The bill also created the Florida Technology Council (FTC) to succeed the STO. The bill appropriated \$2.0 million from General Revenue for the operating costs of the FTC. The bill failed to become law. Given the impact on the corresponding appropriation, the STO was dissolved. Operational control for some of its statutory duties was transferred to DMS and some of its policy and oversight responsibilities were reassigned to the Governor’s Office of Policy and Budget (OPB).

Effect of Proposed Change

The bill assigns responsibility for operating statewide communications systems and services, wireless communications systems and services, the Shared Resource Center, and data security services to DMS. Other duties assigned to DMS include development of the statewide emergency telephone number 911 system plan, administration of the wireless emergency telephone number E911 fee charged to subscribers, administration of the Wireless 911 Board, and administration of the Digital Divide Council.

The bill directs DMS to take no action affecting the supervision, control, management, or coordination of information technology in cabinet agencies. It also provides the agency head primary responsibility and accountability for planning, budgeting, acquisition, development, implementation, use, and management of information technology within the agency.

The bill creates the OIS and directs it to work with all branches of government to ensure the security of agency and enterprise information, data, and systems. The OIS is responsible for rulemaking, formulating policy recommendations, overseeing security audits, training information security managers, coordinating domestic security funding for cyber-security issues, and establishing minimum

⁵ John Kost, “Meeting IT Leadership Challenges in Government,” Gartner, Inc., April 8, 2004.

standards for recovery of information technology following a disaster. Each agency is responsible for taking steps to assure an adequate level of security for all its data and information resources. The bill authorizes seven positions and appropriates \$750,000 from General Revenue for fiscal year 2006-2007 to DMS for the operational expenses of the office.

The bill repeals Part II Commerce Protection of Chapter 282, F.S. Part II ensures compliance with year 2000 data and information conversion as well as remedies for failure. Part II relates solely to commerce activities that would have occurred in relation to the year 2000 date conversion and is no longer necessary.

The bill provides clarification for actions based upon use of a creation that is not protected under federal copyright law. It provides that a creation that is not a work of authorship protected under federal copyright law may not give rise to a claim or cause of action. It allows for a claim or cause of action when the parties have made a contract between them governing the use of the creation.

C. SECTION DIRECTORY:

- Section 1. Amends s. 11.90, F.S., conforming a reference to the State Annual Report on Enterprise Resource Planning and Management.
- Section 2: Amends s. 20.22, F.S., establishing the Technology Program in DMS.
- Section 3: Creates s. 68.066, F.S., providing that works of authorship not protected under federal copyright law may give rise to a claim unless the parties to the claim have entered into an agreement governing its use.
- Section 4: Repeals s. 186.022, F.S., relating to information technology strategic plans.
- Section 5: Amending s. 216.0446, F.S., conforming review of the long-range program plans.
- Section 6: Section 7: Amending s. 282.0041, F.S., modifying definitions for the Information Resource Management Act of 1997.
- Section 7: Amending s. 282.005, F.S., legislative findings and intent with respect to information technology.
- Section 8: Repealing s. 282.101, F.S., construction of terms, "information technology" or "information technology system."
- Section 9: Amending s. 282.102, F.S., establishing DMS as responsible for statewide communications systems and services. Deletes other duties assigned to the STO.
- Sections 10 through 19: Amending ss. 282.103, 282.104, 282.105, 282.106, 282.107, 282.1095, 282.111, 282.20, 282.21, and 282.22, F.S., conforming duties and responsibilities to reflect assignment of communications systems and services, wireless systems and services, and computing services to DMS.
- Section 20: Repealing s. 282.23, F.S., relating to technology procurement.
- Section 21: Amending s. 282.3031, F.S., assignment of information technology planning and management responsibilities.
- Section 22: Amending s. 282.3032, F.S., guiding principles for development and implementation of information technology systems.
- Section 23: Creating s. 282.3033, F.S., establishing a State Chief Information Officer in the Department of Management Services and providing duties.
- Section 24: Amending s. 282.3055, F.S., duties and responsibilities of an agency chief information officer.

- Section 25: Repealing s. 282.3063, F.S., agency annual Enterprise Resource Planning and Management Report.
- Section 26: Repealing s. 282.310, F.S., state annual report on Enterprise Resource Planning and Management.
- Section 27: Amending s. 282.315, F.S., conforming duties of the Agency Chief Information Officers Council and providing for appointment of a chairman, vice-chairman, and secretary of the council.
- Section 28: Amending s. 282.318, F.S., conforming security of data and information technology and providing for establishment of the Office of Information Security in DMS.
- Section 29: Amending s. 282.322, F.S., conforming special monitoring process for designated information resources management projects.
- Section 30: Repealing s. 282.5001, F.S., the Commerce Protection Act.
- Section 31: Repealing s. 282.5002, F.S., definitions for the Commerce Protection Act.
- Section 32: Repealing s. 282.5003, F.S., exclusive remedies for failure to be year 2000 compliant.
- Section 33: Repealing s. 282.5004, F.S., damages for failure to be year 2000 compliant, limitations, and statute of limitations.
- Section 34: Repealing s. 282.5005, F.S., immunity from liability for directors and officers of business.
- Section 35: Repealing s. 282.5006, F.S., antitrust exemption with respect to exchanges of information.
- Section 36: Repealing s. 282.5007, F.S., alternative dispute resolution procedures.
- Section 37: Repealing s. 282.5008, F.S., construction of act.
- Sections 38 and 39: Amending ss. 365.171 and 365.172, F.S., conforming emergency 911 and wireless 911 services as a duty of DMS.
- Section 40: Amending s. 445.049, F.S., conforming Digital Divide Council as a duty of DMS.
- Section 41: Authorizing seven positions and appropriating \$750,000 from General Revenue for the OIS.
- Section 42: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The proposed committee bill authorizes seven positions and appropriates \$750,000 from General Revenue to DMS for operational costs of the OIS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DMS is provided rulemaking authority and specific duties to be implemented. Rules exist pertaining to communications systems and services, wireless systems and services, and computing services. The department will need to modify the rules to delete references to the State Technology Office and insert the department.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES