

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: PCS/SB 2574

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Information Technology

DATE: March 25, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Wilson	GO	Pre-meeting
2.			GA	
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill revises the duties of the Agency for Enterprise Information Technology (AEIT), by creating within it the Office of Information Security and specifying its duties, and clarifying duties related to state data center consolidation. The bill also provides further duties relating to the process by which the AEIT and agencies must move forward with data center consolidation and information technology security planning, and establishes a state e-mail system. The bill also reassigns duties formerly assigned to the now-defunct State Technology Office, repeals an obsolete provision relating to the duties of the Legislative Budget Commission, and corrects cross references.

This bill substantially amends ss. 11.90, 14.204, 110.205, 282.003, 282.0041, 282.0056, 282.201, 282.203, 282.204, 282.205, 282.318, 282.33, 287.042, 1004.52, 318.18, 393.002, and 1001.26 of the Florida Statutes.

The bill creates ss. 282.34, 282.701, 282.702, 282.703, 282.704, 282.705, 282.706, 282.707, 282.708, 282.709, 282.710, and 282.711, and repeals s. 282.22 of the Florida Statutes.

II. Present Situation:

The State Technology Office

The State Technology Office (STO) was established in the Department of Management Services (DMS) in 1997.¹ During the 2000 and 2001 legislative sessions,² the Legislature significantly amended statutes allowing for the consolidation and centralization of information technology (IT) assets and resources for executive branch agencies. While other sections of statute were amended to accomplish this policy direction, the primary chapter amended was Part I of Chapter 282, F.S., to either take existing powers and duties assigned to the DMS and transfer these powers and duties to the STO, or prescribe additional powers and duties to the STO to accomplish the policy direction of consolidating and centralizing information technology. These new or additional powers and duties included the following:

- Created the STO within the DMS as a separate budget entity and required the STO to be headed by a Chief Information Officer (CIO) who is appointed by the Governor, is in the Senior Management Service, and who was an agency head for all purposes.
- Required the STO to develop and implement service level agreements with each agency that the STO provides information technology services.
- Authorized the transfer of positions, associated rate and the amount of approved budget to the STO for those state agencies that entered into a memorandum of agreement.
- Established State Strategic Information Technology Alliance and required STO to promulgate rule implementing the policies & procedures for establishing strategic alliances.
- Required the STO to adopt rules for implementing policies & procedures providing best practices to be followed by agencies in acquiring, using, upgrading, modifying, replacing, or disposing of information technology.
- Allowed the CIO to appoint or contract for the agency chief information officer.
- Allowed the STO to deploy enterprise portal for governmental information & services.

In addition to these changes to Chapter 282, other significant changes made to other sections of statute included:

- Amended s. 20.22(2)(b), F.S., to establish the STO as a division or program within DMS.
- Amended s. 20.22(3), F.S., to give the STO the authority to operate and manage the Technology Resource Center.
- Amended s. 110.205(2)(e), F.S., to exempt from career service the positions of state CIO, deputy CIO, chief technology officers and deputy chief technology officers in the STO and authorized the STO to set the salaries and benefits for these positions in accordance with the rules of Senior Management Service.
- Amended s. 110.205(2)(w), F.S., to exempt from career service all managers, supervisors, and confidential employees of the STO and authorized the STO to set the salaries and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

¹ Chapter 97-286, L.O.F.

² Chapter 2000-164, L.O.F.; Chapter 2001-261, L.O.F.

In 2004, the Legislature passed CS/CS/SB 1494, to transfer operational responsibilities for telecommunications and data center management to the DMS, and to place the strategic planning and policy responsibilities of the STO with a successor entity, the Florida Technology Council. The bill was vetoed by the Governor and the STO underwent de facto dissolution, since the FY 2005-06 General Appropriations Act made no appropriation for the funding of positions in the STO budget entity. The DMS did not request funding for the re-establishment of the STO budget entity for FY 2006-07. The DMS has subsequently provided for the operational responsibilities of the STO through an entity called Enterprise Information Technology Services.

Pursuant to its rulemaking authority, the STO had adopted rules relating to its duties and functions.³ Some of these rules had been in a state of suspension, since the STO no longer existed to amend them, though subsequent legislation specified entities with functional responsibility for the former STO duties.

Agency for Enterprise Information Technology

The Legislature in 2007 created the Agency for Enterprise Information Technology (AEIT), and assigned it responsibilities for information technology (IT) strategic planning, enterprise IT policies and standards, enterprise IT security, and the management of enterprise IT services that would be defined in law.⁴

The AEIT is created in s. 14.204, F.S. The Governor and Cabinet are the agency head of the AEIT, though it is statutorily housed in the Executive Office of the Governor (EOG). The AEIT is a separate budget entity that is not subject to control, supervision, or direction by the EOG in any manner. As agency head, the Governor and Cabinet are authorized to appoint an executive director, who is the chief information officer (CIO) of the state. Section 282.0055, F.S., delegates responsibility to the AEIT for the design, planning, project management, and implementation of enterprise information technology services for functions that have been delegated to executive branch agencies. The first enterprise IT service assigned to AEIT was the statewide data center system, in 2008.⁵

Among the duties assigned to the AEIT is the development of a work plan describing the activities that the agency intends to undertake that year, and proposed outcomes and completion timeframes.⁶ The work plan must be approved by the Governor and Cabinet and submitted to the President of the Senate and the Speaker of the House of Representatives. For the 2007-2009 fiscal year, the work plan must include the development of recommended information technology policies. By December 2009, the agency is required to develop implementation plans for at least one of the following proposed enterprise information technology services to be established in law:⁷

³ Rules 60DD-1, -2, -4, -5, -6, -7, -8, F.A.C.

⁴ Chapter 2007-105, L.O.F.; CS for SB 1974. The legislation also distributed STO duties to other entities.

⁵ Chapter 2008-116, L.O.F.; CS for SB 1892, which created the statewide data center system, and also made adjustments to the duties of the AEIT.

⁶ Section 282.0056, F.S.

⁷ In 2008, when the Legislature established the statewide data center system, consolidation of the deployment, management, and operation of state owned or state operated computer rooms and data centers was removed from the list of proposed enterprise information technology services in s.282.0056(2), F.S.,.

- Consolidation of the deployment, management, and operation of state owned or state operated computer rooms and data centers.
- Information security.
- Consideration of a planned replacement cycle for computer equipment.

The State Data Center System

The state data center system was created by the Legislature in 2008.⁸ The system is composed of primary data centers, other nonprimary data centers, and computing facilities serving state agencies. A “primary data center” is a state or nonstate agency data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities. A primary data center may be authorized in law or designated by the AEIT.⁹ A “computing facility” is an agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, but excluding single-server installations that exclusively perform a utility function such as file and print servers.¹⁰

The AEIT is responsible for establishing operating policies for the system.¹¹ It must:

- Maintain an inventory of facilities within the state data center system.
- Annually approve cost-recovery mechanisms and rate structures for primary data centers.
- Submit to the Legislature by December 31 of each year recommendations to improve the efficiency and effectiveness of computing services provided by state data center system facilities.
- Identify, by December 31 of each year, at least two nonprimary data centers or computing facilities for consolidation into a primary data center or nonprimary data center facility and submit a transition plan.
- Develop policies for the operation of the state data center system.

State agencies are required to report certain information to the AEIT annually.¹² By July 1 of each year, each state agency must submit to the AEIT the following information for each agency data center and computing facility:

- The amount of floor space used and available.
- The numbers and capacities of mainframes and servers.
- Storage network capacity.
- Amount of power used and the available capacity.
- Estimated expenditures by service area.
- A list of contracts in effect for the fiscal year.
- Service-level agreements by customer entity.

⁸ Chapter 2008-116, L.O.F.; CS for SB 1892.

⁹ Section 282.0041(18), F.S.

¹⁰ Section 282.0041(8), F.S.

¹¹ Section 282.201(2), F.S.

¹² Section 282.201(3), F.S.

A state agency may not, unless otherwise authorized by the Legislature or by the AEIT, do the following:

- create a new computing facility or data center or expand an existing computing facility or data center;
- transfer existing computing services to or initiating new computing services with a nonprimary data center or computing facility; or
- terminate services with a primary data center or transferring services between primary data centers without giving written notice of intent to terminate or transfer services 180 days before such termination or transfer.¹³

The AEIT is authorized to grant an exception to these three provisions if there is insufficient capacity in a primary data center to absorb the workload associated with agency computing services.¹⁴

III. Effect of Proposed Changes:

Duties Relating to the AEIT and State Data Centers:

Section 1 amends s. 11.90(7), F.S., by deleting an outdated provision requiring the Legislative Budget Commission to compare IT needs identified in agency long range program plans with a report adopted by the now defunct State Technology Office.

Section 2 amends s. 14.204, F.S., by making technical amendments to the duties of the AEIT, refining the requirements of the long-term strategic enterprise technology plan, establishing the Office of Information Security (OIS) in the AEIT, and requiring the designation of a Chief Information Security Officer.

By December 31, 2010, the AEIT must submit an implementation plan for information security to the Senate, House, and Governor.

Section 3 amends s.110.205, F.S., by deleting references to the defunct State Technology Office, and providing that the CIO of the AEIT is a Senior Management Service (SMS) position, and that the AEIT must set the salary and benefits of this position in accordance with the rules of the SMS.

Section 4 amends s. 282.003, F.S., only to change the short title of subsequent sections to the “Enterprise Information Technology Services Management Act.”

Section 5 amends s. 282.0041, F.S., by deleting one, and amending other definitions used in the Enterprise Information Technology Services Management Act, and adding definitions for “breach,” “department,” “risk analysis,” and “threat.”

¹³ Section 282.201(4)(a), F.S.

¹⁴ Section 282.201(4)(b), F.S.

Section 6 amends s. 282.0056, F.S., by deleting a requirement that the AEIT annually report on its implementation plans for proposed enterprise information technology services, and replacing it with authorization for AEIT to suggest such services.

Section 7 amends s. 282.201, F.S., relating to state data centers, by clarifying the information the AEIT must include in its yearly proposal for data center consolidations. The bill provides that AEIT rules relating to operation of the data centers may include provisions relating to removal of nonstate data centers that fail to meet certain standards. The bill specifies what is required to grant an agency request to be excepted from required location in a primary data center.

Section 8 amends s. 282.203, F.S., relating to primary data centers, by specifying that primary data centers are the custodians of resources located, operated, and managed by the center. The bill also modifies the method of determining the composition of the boards of trustees for state primary data centers, and the apportionment of votes for the trustees. All customer entities with a projected usage rate of 4% or greater get a seat on the board. The executive director of the AEIT no longer gets a seat on the board, but serves as an advisor. The primary data center boards are tasked with maintaining the capabilities of the data center facilities, and ensuring that its cost-allocation plan recovers sufficient funds to provide for data center needs.

Section 9 amends s. 282.204, F.S., relating to the Northwood Shared Resource Center (NWSRC), by providing that the secretary of DCF may appoint a temporary chair for the board of trustees. The bill requires DCF and the NWSRC to identify resources associated with information technology functions which are not related to the support, management, and operation of the data center but which currently exist within the same budget entity as the data center, and by October 1, 2009, submit a budget amendment to transfer resources associated with these functions to DCF.

Section 10 amends s. 282.205, F.S., relating to the Southwood Shared Resource Center (SSRC), by deleting a now-unnecessary provision providing the authority to do budget amendments related to IT resources. The authority is no longer needed because the transfers between the SWSRC and DMS had to be completed by October 1, 2008.

Section 11 amends s. 282.318, by renaming the “Enterprise Security of Data and Information Technology Act,” establishing the Office of Information Security within the AEIT, and creating duties for both the office and agencies with regards to enterprise security. The office must perform the following duties:

- Develop and annually update an enterprise information security strategic plan that includes security goals and objectives for the strategic issues of information security policy, risk management, training, incident management, and survivability planning.
- Develop enterprise security rules and published guidelines.
- Assist agencies in complying with the provisions of s. 282.318, F.S.
- Pursue appropriate funding for the purpose of enhancing domestic security.
- Provide training for agency information security managers.
- Annually review the strategic and operational information security plans of executive branch agencies.

Agencies must do the following, in addition to those duties already established:

- Annually designate an information security manager.
- Annually submit to the office the agency's strategic and operational information security plans.
- Provide security awareness training to employees and users of the agency's communication and information resources.
- Develop a process for detecting, reporting, and responding to security incidents.

Agency solicitations for IT contracts must include security requirements consistent with the rules and guidelines established by the office.

Section 12 amends s. 282.33, F.S., to clarify that the AEIT report to the Legislature every other year on AEIT's recommendations for reducing energy consumption and improving the energy efficiency of state primary data centers.

Section 13 creates s. 282.34, F.S., relating to the creation of a state e-mail system. The system will be managed and operated by the SWSRC. By December 31, 2009, the AEIT must obtain information about existing IT resources related to e-mail, and develop a strategy for statewide migration to an enterprise e-mail system; the AEIT must also form a workgroup to develop an implementation plan. Without legislative approval, state agencies may not terminate e-mail services provided by the state system.

Communication Information Technology Services:

Section 14 requests the Division of Statutory Revision to create part IV of Chapter 282, F.S., which will consist of sections 282.701 through 282.711, F.S., created by sections 15 through 25 of this bill.

Section 15 creates s. 282.701, F.S., the short title for this part of the Florida Statutes, the "Communication Information Technology Services Act."

Sections 16 through 24 transfer and renumber ss. 282.102 through 282.111 as ss. 282.702 through 282.710, F.S., replace references to the STO with references to the DMS, and make grammatical and organizational changes.

Section 25 transfers and renumber s. 282.21 as s. 282.711, F.S., and replaces references to the STO with references to the DMS.

Other Issues:

Section 26 repeals s. 282.22, F.S., which allows the STO to share acquired or developed services and products with other governmental entities.

Section 27 amends s. 287.042, F.S., to require the DMS to develop procedures to ensure compliance with public records and record retention requirements, to be used by state agencies when procuring IT commodities and services. The bill gives an advisory role to the Agency

Chief Information Officers Council in the creation of procedures for procuring IT commodities and services. The bill also deletes obsolete duties related to the STO.

Section 28 amends s. 1004.52, F.S., by deleting a requirement that the Institute on Urban Policy and Commerce must seek guidance from the STO and the state's Chief Information Officer in establishing requirements governing the purchase of computers purchased with funds from the community computer access grant program.

Section 29 reassigns or repeals rules that were previously assigned to the STO. The bill repeals Rules 60DD-1, 60DD-4, 60DD-5, 60DD-6, 60DD-7, and 60DD-8, F.A.C., and directs the Department of State to remove the rule from the Florida Administrative Code. The bill transfers Rule 60DD-2, F.A.C., to the AEIT.

Section 30 amends section 17 of chapter 2008-116 of the 2008 Laws of Florida, by specifying that the primary data center in which resources and equipment are located is the custodian of the resources and equipment for purposes of Chapter 273, Florida Statutes.

Sections 31 through 33 amend ss. 318.18, 393.002, and 1001.26, F.S., to correct cross references.

Section 34 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Data center consolidation should, over time, result in decreased operating costs to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The Proposed Committee Substitute adjusts the definitions of the terms “breach” and “standards,” moves some of the duties of the Office of Information Security from section 2 to section 11 of the bill, changes the reassignment of old STO rules, and changes the effective date.

B. Amendments:

None.