

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 Committee on Governmental Oversight and Accountability

BILL: SPB 7024

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: State Technology

DATE: February 3, 2014 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. McKay	McVaney		Pre-meeting

I. Summary:

SPB 7024 substantially revises how the state establishes information technology (IT) policy and procedures. The bill creates the Agency for State Technology (AST), administratively housed in the Department of Management Services. The defunct Agency for Enterprise Information Technology is abolished by the bill, and its duties are transferred to the AST. The AST is given extensive authority to set state technology policy and perform project oversight of large IT projects. The Northwood and Southwood shared resource centers are transferred to the AST.

For the 2014-2015 fiscal year, \$2,865,108 in recurring general revenue funds, \$2,134,892 in nonrecurring general revenue funds, and 25 full time equivalent positions with associated salary rate of 2,010,951 are appropriated to the AST, in this bill.

Except as otherwise provided, the bill is effective July 1, 2014.

II. Present Situation:

Agency for Enterprise Information Technology

Duties

In 2007, the Florida 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 to²:

- Submit an annual work plan for approval by the Governor and Cabinet ;

¹ 2007-105, Laws of Florida.

² Section 14.204, Florida Statutes.

- 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, information technology security, and the statewide e-mail service;
- Coordinate with the Division of Purchasing in the 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; and
- 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 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.

Administrative Rules

The AEIT was authorized to adopt rules to carry out its statutory duties⁵ and to specifically adopt rules relating to:

- Information security;⁶ and
- State data center system.⁷

The AEIT adopted 34 administrative rules under the following chapters:

- Chapter 71-1, Florida Administrative Code, *Confirmation and Delegation of Authority*, effective July 13, 2009;
- Chapter 71A-1, Florida Administrative Code, *Florida Information Technology Resource Security Policies and Standards*, effective November 15, 2010; and
- Chapter 71A-2, Florida Administrative Code, *Florida Information Resource Security Policies and Standards*, effective August 10, 2004. These rules were promulgated by the Department of Management Services State Technology Office division.

³ 2008-116, Laws of Florida.

⁴ 2009-80, Laws of Florida.

⁵ Section 14.204(7), F.S.

⁶ Section 282.318(6), F.S.

⁷ Section 282.201(2)(e), F.S.

The AEIT initiated, but never completed, the rule adoption process for two sets of rules:

- Chapter 71B-1, Florida Administrative Code, *Enterprise E-mail Service*; and
- Chapter 71B-2, Florida Administrative Code, *Data Center System*.

Defunding the AEIT

In 2012, the Governor vetoed HB 5011, legislation that abolished the AEIT and transferred some of AEIT's duties to a new agency created in the bill. Because HB 5011 transferred the salary and positions from the AEIT to the new agency, the effect of the veto was the elimination of funding for AEIT, though some of its duties still exist in statute.

Primary Data Centers and Data Center Consolidation

The state data center system was created by the Legislature in 2008.⁸ The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center, and the Northwest Regional Data Center), other nonprimary data centers, and computing facilities serving state agencies. A "primary data center" is a data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities and that is established by law.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, F.S., but excludes single-server installations that exclusively perform a utility function such as file and print servers.¹⁰ The AEIT is responsible for developing policies for the system.¹¹

As defined by law, Wave 1 of data center consolidation was initiated in 2009 with proviso included in the fiscal year 2009-2010 General Appropriations Act that required the:

- Florida Parole Commission to transfer its information technology services, to include its data center functions, to the Department of Corrections by July 1, 2009;
- Department of Juvenile Justice to consolidate its data center functions into the Northwood Shared Resource Center (NSRC) by July 1, 2010; and
- Department of Business and Professional Regulation to consolidate its data center functions into the NSRC by November 30, 2010.

Beginning in 2009, on October 1st of each calendar year, the AEIT is required to recommend to the Governor and Legislature at least two agency data centers or computing facilities for consolidation into a primary data center.¹² The AEIT submitted its recommendations on September 30, 2009,¹³ for the Wave 2 consolidations and the Legislature directed, via proviso in the Fiscal Year 2010-2011 General Appropriations Act, the following consolidations:

⁸ Chapter 2008-116, L.O.F.

⁹ Section 282.0041(17), F.S.

¹⁰ Section 282.0041(7), F.S.

¹¹ Section 282.201(2), F.S.

¹² s. 282.201(2), F.S.

¹³ *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers*. Agency for Enterprise Information Technology, September 30, 2009.

- To the Northwood Shared Resource Center (NSRC)
 - Department of Juvenile Justice by July 1, 2010;
 - Department of Business and Professional Regulation by November 30, 2010;
 - Department of Children and Families' Winewood Office Complex by June 30, 2012; and
 - Department of Transportation's Motor Carrier Compliance Office by July 1, 2011.
- To the Southwood Shared Resource Center (SSRC)
 - Department of Transportation Burns Office Building by March 31, 2012; and
 - Department of Transportation Survey and Mapping Office by March 31, 2012.
- To the Northwest Regional Data Center (NWRDC)
 - Department of Education by December 31, 2011;
 - College Center for Library Automation by December 31, 2011; and
 - Florida Center for Library Automation by December 31, 2011.
- To the NSRC or SSRC
- Agency for Health Care Administration by June 30, 2012; and
- Department of Highway Safety and Motor Vehicles by December 31, 2011.

On December 23, 2010, the AEIT submitted a report "*Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019.*" The report provides recommendations for the consolidation of the remaining agency data centers and computing facilities after Wave 2. In 2011, the Legislature codified in statute the recommendations included in AEIT's December 23, 2010, report identifying the agencies required to consolidate into a primary data center within that fiscal year.¹⁴

In 2012, the Legislature amended the data center consolidation schedule as follows:¹⁵

- To the NSRC:
 - Department of Highway Safety and Motor Vehicles' Office of Motor Carrier Compliance by July 1, 2012;
 - Department of Highway Safety and Motor Vehicles by August 31, 2012;
 - Department of Health's Test and Development Lab and all remaining data center resources located at the Capital Circle Office Complex by December 31, 2012;
 - Department of Veterans' Affairs by July 1, 2013;
 - Department of Legal Affairs by December 31, 2013; and
 - Department of Agriculture and Consumer Services' Agriculture Management Information Center in the Mayo Building and the Division of Licensing by March 31, 2014.
- To the SSRC:
 - Fish and Wildlife Conservation Commission, except for the commission's Fish and Wildlife Research Institute in St. Petersburg, by July 1, 2013;
 - Department of Economic Opportunity by October 31, 2013;

¹⁴ Chapter 2011-50, L.O.F.

¹⁵ Chapter 2012-142, L.O.F.

- Executive Office of the Governor, to include the Division of Emergency Management except for the Emergency Operation Center's management system in Tallahassee and the Camp Blanding Emergency Operations Center in Starke, by December 31, 2013; and
- Department of Elderly Affairs by March 31, 2014.
- To the NWRDC:
 - Department of Revenue's Carlton Building and Imaging Center locations by September 30, 2012.

The following entities are exempted from data center consolidation:

- Florida Department of Law Enforcement;
- Department of Lottery's Gaming System and the department's Backup Data Center in Orlando;
- Systems Design and Development in the Office of Policy and Budget;
- State Board of Administration;
- State Attorneys;
- Public Defenders Office;
- Criminal Conflict and Civil Regional Counsel;
- Capital Collateral Regional Counsel;
- Florida Clerks of Court Operations Corporation; and
- Florida Housing Finance Corporation

The Department of Financial Services must consolidate in Fiscal Year 2015-2016.

The Implementing Bill for the 2013-14 General Appropriations Act¹⁶ modified the consolidation schedule in s. 282.201(4), F.S., to require that the Fish and Wildlife Conservation Commission, except for the commission's Fish and Wildlife Research Institute in St. Petersburg, be consolidated into the NSRC by October 30, 2013. The bill also deleted the consolidation schedule for the Department of Veterans' Affairs, the Department of Legal Affairs, and the Department of Agriculture and Consumer Services' Agriculture Management Information Center.¹⁷

Each agency identified for consolidation into a primary data center must submit with its respective legislative budget request the specific recurring and nonrecurring budget adjustments of resources by appropriation category into the appropriate data processing category pursuant to the legislative budget request instructions in s. 216.023, F.S.

The Financial Management Information System Act¹⁸

The Florida Financial Management Information System (FFMIS) Act, authorized in ss. 215.90 through 215.96, F.S., was established to plan, implement, and manage a unified information

¹⁶ Senate Bill 1502, section 47.

¹⁷ Pursuant to section 48 of SB 1502, this amendment expires July 1, 2014, and the text of s. 282.201(4), F.S., reverts to the text in effect on June 30, 2013.

¹⁸ All the information in this section comes from Florida Senate Issue Brief 2009-321, *Florida Financial Management Information System (FFMIS) Act*, pp. 2-3.

system which provides fiscal, management, and accounting information. The FFMIS Act established the Florida Management Information Board (FMIB) and the FFMIS Coordinating Council. The FMIB is comprised of the Governor and Cabinet and has overall responsibility for managing and overseeing the development of Florida Financial Management Information System pursuant to s. 215.95, F.S., including establishing financial management policies and procedures for executive branch agencies. The Council is comprised of the members of the Cabinet, the secretary of the Department of Management Services, and the director of the Governor's Office of Policy and Budget. Among other duties, the Council is to approve all FFMIS subsystem designs and modifications prior to implementation and to make recommendations to the FMIB on policy alternatives to ensure coordination between the subsystems as defined in ss. 215.93 and 215.96, F.S.

There are five FFMIS subsystems which must be designed, implemented, and operated pursuant to the act. Each has a statutorily-identified functional owner as well as additional statutory requirements as follows:

- Planning and Budgeting – The Executive Office of the Governor is the functional owner. The system must also be designed, implemented, and operated pursuant to ch. 216, F.S.;
- Florida Accounting Information Resource (FLAIR) – The Department of Financial Services is the functional owner. The system must also be designed, implemented, and operated pursuant to ss. 17.03, 215.86, 216.141, and 216.151, F.S.;
- Cash Management System (CMS) – The Chief Financial Officer is the functional owner;
- Purchasing (MyFloridaMarketplace) – The Department of Management Services is the functional owner;
- Personnel Information (PeopleFirst) – The Department of Management Services is the functional owner. The system must also be designed, implemented, and operated pursuant to s. 110.116, F.S.;

The FFMIS Act identifies each subsystem's general functional requirements but allows each functional owner to establish additional functions unless they are specifically prohibited by the FFMIS Act. Functional owners may not establish or maintain additional subsystems which duplicate any of the FFMIS subsystems.

The FMIB approved a strategic plan on March 14, 2000, that authorized the replacement of the FFMIS subsystems with an enterprise-wide financial management system that integrates financial information and standardizes policies and information. This system has never been implemented. The FMIB has not made any decisions relating to policy or the FFMIS subsystems since February 2001 when it modified the strategic plan to allow the use of outsourcing as a means to replace or enhance the functionality of the FFMIS subsystems. No subsystem designs or modifications have been brought to the FMIB for review or approval since that time. As a result, the overall governance and management of each FFMIS subsystem has been "unofficially delegated" to each functional owner and each functional owner has autonomously pursued an independent path for development and enhancement of its subsystem. The FMIB has been inactive since February 2005.

Method of Reorganization for the Executive Branch

Pursuant to s. 20.06, F.S., the executive branch of state government must be reorganized by transferring the specified agencies, programs, and functions to other specified departments, commissions, or offices. Such a transfer does not affect the validity of any judicial or administrative proceeding pending on the day of the transfer, and any agency or department to which are transferred the powers, duties, and functions relating to the pending proceeding must be substituted as a party in interest for the proceeding.

A type one transfer is the transferring intact of an existing agency or department so that the agency or department becomes a unit of another agency or a department. Any agency or department transferred to another agency or department by a type one transfer will exercise its powers, duties, and functions as prescribed by law, subject to review and approval by, and under the direct supervision of, the head of the agency or department to which the transfer is made, unless otherwise provided by law. Any agency or department transferred by a type one transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, transferred to the agency or department to which it is transferred. Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency or department or a program, activity, or function transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided. Unless otherwise provided, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions. Unless otherwise provided, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

Section 1 repeals s. 14.204, F.S., which creates and provides the duties for the now-defunct Agency for Enterprise Information Technology.

Section 2 creates in s. 20.61, F.S., the Agency for State Technology (AST) within DMS for administrative purposes only. The AST must develop, implement, and manage state enterprise information technology services. The executive director of the agency, who will be the state's

Chief Information Officer (CIO), must be appointed by the Governor, and confirmed by the Senate.

The bill creates a Technology Advisory Council to make recommendations to the executive director on enterprise information technology policy and standards. The council must comply with the code of ethics for public officers, and each member must file statements of financial interests.

Section 3 amends the definitions in s. 282.0041, F.S., by modifying, adding, and deleting some definitions, and changing references from the AEIT to the AST.

Section 4 creates s. 282.0051, F.S., to specify the duties and functions of the AST. Specific duties and functions of the AST are as follows:

- Develop state technology policy for the management of state IT services;
- Establish architecture standards for the state's technology infrastructure;
- Establish project management and project oversight standards for IT projects;
- Provide project oversight for all technology projects exceeding 10 million;
- Identify opportunities for standardizing and consolidating IT services;
- Collaborate with DMS in establishing best practices for the procurement of IT products;
- Collaborate with DMS in conducting procurement negotiations for IT products;
- Establish standards for state agency information technology reporting;
- Assist state agencies with legislative budget requests, upon request;
- Conduct annual assessments of state agencies for compliance with statewide IT standards;
- Manage the state data center;
- Recommend other IT services that should be managed at the enterprise level;
- Recommend any further data center consolidations into the state data center;
- Propose methodology for collecting current and planned state agency IT expenditure data; and
- Adopt rules.

The Department of Financial Services, Department of Legal Affairs, and Department of Agriculture and Consumer Services are not subject to the standards, services, and functions established by the AST, but each of these agencies may contract separately with AST to perform any of those services and functions. However, these three agencies must adopt the AST standards with regards to IT architecture standards, project management standards, and IT reporting, or adopt alternative standards based on industry best practices in these three areas. These three agencies are also subject to the authority of the AST for any technology project that affects another state agency and which has a total cost of \$50 million or more funded in law.

Sections 5 and 6 repeal ss. 282.0055 and 282.0056, F.S., which specified AET duties with regards to the assignment of information technology resources, and development of a work plan, respectively.

Section 7 amends s. 282.201, F.S., relating to the state data center system, by deleting duties of AEIT, and creating within AST the state data center, consisting of the Northwood Shared

Resource Center (NSRC) and the Southwood Shared Resource Center (SSRC). The state data center must:

- Offer and support the services and applications provided to customer entities;
- Maintain the performance of the state data center;
- Develop a business continuity plan and a disaster recovery plan;
- Enter into a service level agreements with customer entities;
- Be the custodian of resources and equipment that are located, operated, supported, and managed by the state data center; and
- Assume administrative access rights to the resources and equipment, such as servers, network components, and other devices that are consolidated into the state data center

The bill repeals the current schedule for consolidation of agency data centers, and specifies that the regional traffic management centers and the Office of Toll Operations of the Department of Transportation are exempt from data center consolidation.

Sections 8, 9, and 10 repeal ss. 282.203, 282.204, and 282.205, F.S., relating to primary data centers, the NSRC, and the SSRC, respectively. The duties under these sections will be subsumed within the duties specified in section 7 of the bill.

Section 11 amends s. 282.318, F.S., relating to enterprise IT security. The bill generally replaces AEIT with AST in regards to existing enterprise IT security duties. The bill supplements existing duties to require AST to publish an information security framework for use by state agencies, to include a risk assessment methodology, protection procedures, threat detection, data recovery, procedures for limiting unauthorized access to IT resources, and establishing asset management procedures. The bill also requires AST to train state agency IT security managers in collaboration with the Cybercrime Office in the Department of Law Enforcement.

State agencies must:

- Designate an information security who reports to the agency head;
- Submit security plans which include performance metrics;
- Conduct risk assessments consistent with AST risk assessment methodology;
- Develop procedures for reporting IT security incidents to the Cybercrime Office in the Department of Law Enforcement;
- Require state agency employees to complete security awareness training offered by AST; and
- Report IT security incidents to the Cybercrime Office and AST.

Sections 12 and 13 repeals ss. 282.33 and 282.34, F.S., respectively, relating to energy efficiency standards for data centers, and the implementation of a statewide email service.

Section 14 amends s. 17.0315, F.S., to make terminology changes consistent with shifting duties from AEIT to AST.

Section 15 amends s. 20.055, F.S., to add the AST into the definition of “state agency,” which has the effect of clarifying that the AST must have an Office of Inspector General.

Sections 16 and 17 amend ss. 110.205 and 215.322, F.S., respectively, to make terminology changes.

Section 18 amends s. 215.96 F.S., to add the executive director of the AST to the FMIS coordinating council.

Section 19 amends s. 216.023, F.S., to require that for legislative budget requests for IT projects over \$10 million in total cost, the governance structure must incorporate the applicable project management and oversight standards established by the AST.

Sections 20 through 23 amend ss. 287.057, 445.011, 445.045, and 668.50, F.S., respectively, to change terminology to reflect the transfer of technology duties from the AEIT to the AST.

Section 24 amends s. 943.0415, F.S., to task the Cybercrime Office within the Department of Law Enforcement with the following additional duties:

- Monitor IT resources and provide analysis on information technology security incidents;
- Investigate violations of state law pertaining to IT security incidents, threats, or breaches;
- Provide security awareness training and information to state agency employees; and
- Consult with the AST in the adoption of rules relating to IT security.

Section 25 amends s. 1004.649, F.S., to clarify that the cost-allocation methodology used at the Northwest Regional Data Center at Florida State University must comply with applicable state and federal requirements. The bill also requires that service level agreements between the Northwest Regional Data Center and its state agency customers must:

- Prohibit the transfer of computing services between the Northwest Regional Data Center and the state data center without at least 180 days' notice of service cancellation;
- Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit; and
- Provide that the service-level agreement may be terminated by either party for cause only after giving notice to the other party.

Section 26 transfers the AEIT to the AST by a type two transfer. The only rules transferred are chapters 71A-1 and 71A-2 of the Florida Administrative Code, both relating to IT security policies; all other rules adopted by the AEIT are nullified.

Sections 27 and 28 transfer the NSRC and the SSRC to the AST by type two transfer.

Section 29 requires the AST to complete a feasibility study that provides recommendations for managing state government data in a manner that promotes its interoperability and openness and ensures that such data is available to the public if legally permissible and not cost prohibitive. The study must include a clear description of which state government data should be public information, recommended standards for the data, a plan for implementing a single internet website that contains the public information or links to it, and a recommended governance structure. The study must be submitted to legislative leaders and the Executive Office of the Governor by June 1, 2015.

Section 30 creates a State Data Center Task Force comprised of the members of the boards of trustees of the NSRC and SSRC as of June 30, 2014, for the purpose of assisting in the transition of the NSRC and SSRC into the state data center.

Section 31 appropriates for the 2014-2015 fiscal year \$2,865,108 in recurring general revenue funds and, \$2,134,892 in nonrecurring general revenue funds, and authorizes 25 full time equivalent positions with associated salary rate of \$2,010,951 to the AST.

Except as otherwise provided, the bill takes effect July 1, 2014.

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:

For the 2014-15 Fiscal Year, \$2,865,108 in recurring general revenue funds, \$2,134,892 in nonrecurring general revenue funds, and 25 full time equivalent positions with associated salary rate of 2,010,951 are appropriated to the AST.

Department of Management Services Administrative Costs

Currently, the Southwood Shared Resource Center and the Northwood Shared Resource Center are assessed charges for the services they receive from the Department of Management Services. The assessments paid by the centers in the current year are roughly \$100,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Absent clarification on the requirement that the executive director of the AST must be a “proven, effective” administrator, the requirement may be subject to differing interpretations.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 282.0041, 282.201, 282.318, 17.0315, 20.055, 110.205, 215.322, 215.96, 216.023, 287.057, 445.011, 445.045, 668.50, 943.0415, and 1004.649.

This bill creates the following sections of the Florida Statutes: 20.61, and 282.0051.

This bill repeals the following sections of the Florida Statutes: 14.204, 282.0055, 282.0056, 282.203, 282.204, 282.205, 282.33, and 282.34.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.