

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: SB 1430
INTRODUCER: Senator Brandes
SUBJECT: State Technology
DATE: February 8, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 1430 establishes a chief data officer within the Agency for State Technology (AST) who shall be appointed by the executive director.

The bill amends s. 282.0051, F.S., to expand AST's duties to include overseeing the transition of various licenses and identification cards to an optional digital proof of the licenses and identification cards for a specified fee and developing standards for the digitization of such licenses and identification cards. AST is authorized to access all identity, license and identification card data, and other pertinent information within possession of any state agency, commission or department, unless prohibited by federal law, and to adopt rules regarding such access.

The Department of Highway Safety and Motor Vehicles (DHSMV) and the Fish and Wildlife Conservation Commission (FWC), in conjunction with AST, must develop a secure and uniform system for issuing an optional digital proof of driver license, boater safety identification card, vessel licenses and licenses for game, freshwater or saltwater fish, or fur-bearing animals. In coordination with AST, the DHSMV and the FWC may adopt rules to ensure the valid authentication of digital proof of these licenses and identification cards.

In conjunction with AST, the DHSMV must implement a digital proof of driver license pilot program by July 1, 2017. The sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to AST for implementing this pilot program for the 2016-2017 fiscal year.

In addition, AST is responsible for implementing the recommendations of the 2015 data feasibility study. The anticipated cost to AST to implement these recommendations is in excess of \$300,000 annually. No funds are provided in this bill to AST for this purpose.

The effective date of the bill is October 1, 2016.

II. Present Situation:

Agency for State Technology

The Agency for State Technology (AST) was created on July 1, 2014.¹ The executive director of AST is appointed by the Governor and confirmed by the Senate.

For the 2015-2016 fiscal year, AST is authorized 25 full-time equivalent positions within its Executive Direction and Support Services budget entity. Of those positions, the executive director is required to designate the following:²

- Deputy executive director;
- Chief planning officer and six strategic planning coordinators;
- Chief operations officer;
- Chief information security officer; and
- Chief technology officer.

The duties and responsibilities of AST include:³

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of \$10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with DMS.
- Participating with DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing methodology for identifying and collecting current and planned IT expenditure data at the state agency level.

¹ Chapter 2014-221, Laws of Florida.

² Section 20.61(2), F.S.

³ Section 282.0051, F.S.

- Performing project oversight on any cabinet agency IT project that has a total project cost of \$25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,⁴ consisting of seven members, is established within AST. Four members of the council are appointed by the Governor of which two members must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council makes recommendations to the Executive Director on enterprise information technology policies, standards, services, and architecture.⁵ The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.⁶ The Executive Director consults with the council with regards to executing the duties and responsibilities of the agency relating to statewide information technology strategic planning and policy.⁷

Digital Proof of Driver License

In 2014, the Legislature enacted s. 322.032, F.S.,⁸ requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to prepare for the development of an optional digital proof of driver license in a format that allows law enforcement to verify the authenticity of the digital proof.

Section 322.059, F.S., requires that any person whose driver license or registration has been suspended must return that driver license immediately to the DHSMV. If he or she fails to return the license or registration, a law enforcement agent may seize the driver license. This section further provides that the DHSMV shall invalidate the digital proof of driver license for such person whose driver license is suspended.

Section 322.15, F.S., requires that every licensee must have his or her driver license in his or her possession at all times while operating a motor vehicle and shall display that license upon demand of a law enforcement officer or an authorized representative of the DHSMV. Also, this

⁴ Section 20.61(3), F.S.

⁵ Section 20.61(3)(a), F.S.

⁶ *Id.*

⁷ Section 20.61(3)(b), F.S.

⁸ Chapter 2014-216, s. 27, Laws of Fla.

section allows a licensee to present or submit a digital proof of driver license in lieu of a physical driver license.

A person who possesses a false digital proof of driver license commits a second degree misdemeanor punishable by imprisonment not to exceed 60 days.⁹

Licenses and Identification Cards Issued by the Fish and Wildlife Conservation Commission

Boater Safety Identification Cards

Section 327.395(1), F.S., requires that, subject to exceptions listed in s. 327.395(6), F.S., a person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless that person has a photographic identification and a boater safety identification card issued by the Fish and Wildlife Conservation Commission (FWC), which shows he or she has:

- Completed a FWC approved boater education course that meets the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators;
- Passed a course equivalency examination approved by the FWC; or
- Passed a temporary certificate examination developed or approved by the FWC.

The boater safety education course covers a broad range of subjects designed to educate boaters on safe boating in Florida.¹⁰ The boater safety education course may be taken in person, in a classroom, or online.¹¹ Failure to comply with the boating safety education requirement is a noncriminal infraction under s. 327.395(7), F.S., and is punishable with a fine, ranging from \$50 for a first offense to \$1,000 for a fourth or subsequent offense.

The FWC may appoint liveries, marinas, or other persons as its agents to administer the boater safety education course, boater safety equivalency examination, or temporary certificate examination and issue identification cards under guidelines established by FWC.¹²

The FWC already provides digital proof of licensing to customers at no additional cost to the public.¹³ The FWC is also currently working on providing digital proof of boater safety identification cards at no additional cost to the public.

Recreational Licenses

The FWC requires a person to obtain a license and pay the applicable fees before taking any game, freshwater or saltwater fish, or fur-bearing animals within this state.¹⁴ Section 379.353(2),

⁹ Section 322.032(4)(b), F.S. *Also, see s. 775.082, F.S.*

¹⁰ Rule 68D-36.104, F.A.C.

¹¹ FWC, *Boating Courses*, <http://myfwc.com/boating/safety-education/courses/> (last visited February 3, 2016).

¹² Section 327.95(4), F.S.

¹³ FWC Legislative Bill Analysis dated January 25, 2016 (copy on file with the Governmental Oversight and Accountability Committee).

¹⁴ Section 379.354, F.S.

F.S., exempts specified individuals from having to possess a recreational license while hunting or fishing.

Also, the FWC requires a license for any person who operates any vessel wherein a fee is paid, either directly or indirectly, for the purpose of taking, attempting to take, or possessing any saltwater fish for noncommercial purposes unless he or she has obtained a license for each vessel for that purpose and paid the license fee.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to establish a Chief Data Officer position within AST.

Section 2 amends s. 282.0051, F.S., to expand the powers, duties, and functions of AST to include:

- Overseeing the transition of licenses and identification cards to digital proof of licenses and identification cards to be issued by state agencies, commissions, and departments at the option of licenseholders and cardholders upon payment of a \$5 fee;
- Developing standards for the digitization of individual types of licenses and identification cards when digital proofs of those licenses and identification cards are authorized by law;
- Developing a central digital platform that can store or access data for each type of digital proof of license and identification card;
- Contracting with a third party to assist in the fulfillment of the requirements of this subsection; and
- Authorizing full access to all identity data, license and identification card data, and other pertinent information within the possession of any state agency, commission, or department unless otherwise prohibited by federal law.

The bill requires state agencies, commissions, and departments to consult with AST before contracting with any third-party entity to develop digital proof of license or identification card. If any state agency, commission or department seeks to develop its own digital proof of license or identification card without contracting services to a third party, AST must develop standards for such digital proof of license or identification card and AST must be consulted in the development of such license or identification card.

This section grants authority to AST to adopt rules governing its access to data held by other state agencies, commissions, and departments. The bill provides that if any data or information accessed by AST is exempt from public disclosure pursuant to general law, the section may not be construed to negate the exemption.

In consultation with other state agencies and giving consideration to the feasibility study¹⁶ conducted pursuant to s. 30, chapter 2014-221, Laws of Florida, the chief data officer is directed to:

¹⁵ Section 379.354(7), F.S.

¹⁶ The feasibility study directed AST to analyze, evaluate, and provide recommendations for managing state government data in a manner that promotes interoperability and openness; ensures that, whenever legally permissible and not cost prohibitive, such data is available to the public in ways that make the data easy to find and use; and complies with the provisions of ch. 119, F.S. AST submitted this report to the Governor, the President of the Senate, and the Speaker of the House on June 1,

- Establish a governance structure for managing state government data in a manner that promotes interoperability and openness;
- Establish a catalog of state government data which documents the acceptable use of, security and compliance requirements for, sharing agreements for, and format and methods available to access the data; and
- Ensure that, if legally permissible and not cost prohibitive, such data is readily available to other state agencies and the public in compliance with the public records requirements of ch. 119, F.S.

Section 3 amends s. 322.032, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV), in coordination with AST, to developing a secure and uniform system for issuing an optional digital proof of driver's license for a fee of \$5. The DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed must be in a format that allows law enforcement to verify the authenticity of the digital proof and must display the same required information about the licenseholder as does a driver license issued under ch. 322, F.S.

The DHSMV, in coordination with AST, may adopt rules to ensure valid authentication of digital proof of driver licenses by law enforcement.

The DHSMV, in coordination with AST, must implement a digital proof of driver license pilot program by July 1, 2017, using the developed secure and uniform system. Program participants are limited to elected state officials and state employee volunteers. The DHSMV must provide a report on the results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2018.

The bill amends the criminal penalties for the offense of possession of a false digital proof of driver license, a second degree misdemeanor, to also include imposition of a fine not to exceed \$500.

Section 4 amends s. 327.395, F.S., to require the Fish and Wildlife Conservation Commission (FWC) to issue digital proof of boater safety identification card in cases where the card holder has either completed a FWC-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators or passed a course equivalency examination approved by the FWC.

Digital proof of the identification card is valid for 5 years after the date of issuance.

The bill requires the FWC, in coordination with AST, to develop a secure and uniform system for issuing an optional digital proof of the boater safety identification card for a fee of \$5. The FWC is authorized to contract with one or more private entities to develop the digital proof of the boater safety identification card system.

Digital proof of the boater safety identification card developed by the FWC or by an entity contracted by the FWC must be in a format that allows a law enforcement officer to verify the authenticity of such digital proof. The FWC, in coordination with AST, may adopt rules to ensure valid authentication of digital proof of the identification card by a law enforcement officer.

Digital proof of the boater safety identification card must display the same required information about the cardholder as does an identification card under this section.

A person may not be issued digital proof of the boater safety identification card until he or she has satisfied all of the requirements of this chapter for issuance of an identification card.

Additionally, the bill provides that a person who manufactures a false boater safety identification card or false digital proof of an identification card commits a second degree misdemeanor, punishable by a term of imprisonment not to exceed 60 days or the imposition of a fine not to exceed \$500.

Section 5 amends s. 379.354, F.S., to require the FWC, in coordination with AST, to develop a secure and uniform system for issuing an optional digital proof of vessel licenses and licenses for taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur-bearing animals for a fee of \$5. The FWC is authorized to contract with one or more private entities to develop the digital proof of license system.

Digital proof of the licenses developed by the FWC or by an entity contracted by the Commission must be in a format that allows a FWC law enforcement officer to verify the authenticity of such digital proof. The FWC, in coordination with AST, may adopt rules to ensure valid authentication of digital proof of the licenses by a FWC law enforcement officer.

Digital proof of a license must display the same required information about the licenseholder as does a license under this section.

A person may not be issued digital proof of a license until he or she has satisfied all of the requirements of this chapter for issuance of a license.

The bill requires that the following vessel licenses must be kept aboard the vessel at all times or the digital proof of such license must be in the possession of the vessel owner while operating the vessel:

- A license for any person who operates any vessel licensed to carry more than 10 customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take saltwater fish;
- A license for any person who operates any vessel carrying 6 or fewer customers but who operates a vessel carrying 4 or fewer customers, wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take saltwater fish; and
- A license for a recreational vessel not for hire and for which no fee is paid, either directly or indirectly, by guests for the purpose of taking or attempting to take saltwater fish noncommercially.

Section 6 appropriates the sum of \$500,000 in nonrecurring funds from the General Revenue Fund to AST for the purpose of implementing the pilot program created by the amendment to s. 322.032, F.S., for the 2016-2017 fiscal year.

Section 7 provides an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

An additional fee of \$5 will be assessed for each license that a citizen wishes to have digital proof.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Section 2 (lines 144-158) requires AST to take steps consistent with the data feasibility study completed in 2015. According to that study, implementation of the recommendations are anticipated cost roughly \$320,000 annually for AST (this includes the new chief data officer position).¹⁷

Other state agencies may incur additional costs associated with complying with the implementation of the data feasibility study recommendations.

For the 2016-2017 fiscal year, the sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to AST for implementing a digital proof of driver license pilot program in conjunction with the DHSMV.

¹⁷ See *supra* note 15.

The additional revenues associated with the \$5 fee for the digital proof of license have not been forecasted by the Revenue Estimating Conference. Because it is an optional program, the amount of revenues are indeterminate.

The FWC estimates that the fiscal impact would be significant and that a substantial workload increase would result as the FWC would need to create a data catalogue, and potentially redesign internal systems, policies and procedures. The FWC estimates that 2 to 3 highly skilled FTEs would be needed to create and maintain the data catalogue.

VI. Technical Deficiencies:

Section 3 (lines 162-65) imposes a \$5 fee for issuing an optional digital proof of a driver license. The bill does not direct where the revenues of this fee are to be deposited.

Section 3 (lines 261-262) references a law enforcement officer. In order for the FWC to enforce the provisions of any rules promulgated for ensuring valid authentication of proof of the boater safety identification card, a reference to a FWC law enforcement officer should be included.

Section 4 (lines 249-252) imposes a \$5 fee for issuing an optional digital proof of a boater safety identification card. The bill does not direct where the revenues of this fee are to be deposited.

Section 4 (line 517) references a commission (FWC) law enforcement officer, regarding possible rules promulgated to ensure valid authentication of digital proof of the FWC licenses. A reference to a law enforcement officer should be included as these officers may issue citations for failure to possess required licenses.

Section 5 (lines 502-507) imposes a \$5 fee for issuing an optional digital proof of various recreational licenses issued by FWC. The bill does not direct where the revenues of this fee are to be deposited.

Section 6 (lines 524-528) appropriates funds to AST to implement the digital proof of driver license pilot program. However, HSMV, not AST, is tasked with implementation and will incur the costs. An amendment providing the funds to the HSMV may be more appropriate given the responsibilities of the two agencies.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the sections 20.61, 282.0051, 322.032, 327.395, and 379.354 of the Florida Statutes.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
