HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1357   Information Technology
SPONSOR(S): Oversight, Transparency & Administration; Grant and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N, As CS	Toliver	Harrington
2) Government Operations & Technology Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) in collaboration with the Agency for State Technology (AST) to establish and implement secure and uniform protocols and standards for issuing an optional digital proof of driver license and procure any application programming interface necessary for enabling a private entity to securely manufacture a digital proof of driver license. DSHMV is also required to contract with a private entity to serve as the authorized manufacturer of a digital proof of driver license. AST must designate a private entity as an authorized consumer of digital proofs of driver licenses. Revenue generated from the manufacture or consumption of a digital proof of driver license must be collected at the point of sale or renewal by an authorized manufacturer of digital proofs of driver licenses and such revenue must be shared with the state on a revenue-sharing basis. The bill provides that presenting to a law enforcement officer an electronic device displaying a digital proof of driver license does not constitute consent for the officer to access any additional information on the device other than the digital proof of driver license. Additionally, the person presenting the device to the officer assumes liability resulting in any damage to the device.

The bill specifies that AST's duty to collaborate with the Department of Management Services (DMS) regarding state term contract solicitation only applies to information technology-related solicitations and eliminates the requirement that AST's information technology state contract policy be included in all DMS solicitations and contracts.

Lastly, the bill amends the Uniform Electronic Transaction Act and specifies that the definitions of electronic records and electronic signatures under the act include records and signatures secured through blockchain technology. The bill provides that the use of blockchain technology to secure information while engaged in interstate or foreign commerce does not affect the rights of ownership or use held by the owner of such information unless the terms of the transaction expressly provide for the transfer of such rights.

The bill has an indeterminate fiscal impact on state government. *See* Fiscal Analysis.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Digital Driver Licenses

Current Situation
Current law provides for the establishment of a digital proof of driver license. Specifically, current law requires the Department of Highway Safety and Motor Vehicles (DHSMV) to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license.[1] The statute authorizes DHSMV to contract with one or more private entities to develop a digital proof of driver license system.[2]

The digital proof of driver license developed by DHSMV or by an entity contracted by DHSMV is required to be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license.[3] DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.[4] A person may not be issued a digital proof of driver license until he or she has satisfied all of the statutory requirements relating to the issuance of a physical driver license.[5]

Current law also establishes certain penalties for a person who manufacturers or possesses a false digital proof of driver license.[6] Specifically, a person who:
- Manufactures a false digital proof of driver license commits a felony of the third degree, punishable by up to five years in prison,[7] a fine not to exceed $5,000,[8] or under the habitual felony offender statute.[9]
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison.[10]

Effect of the Bill
The bill requires DHSMV in collaboration with the Agency for State Technology (AST) to establish and implement secure and uniform protocols and standards for issuing an optional digital proof of driver license and procure any application programming interface necessary for enabling a private entity to securely manufacture a digital proof of driver license. DSHMV is also required to contract with a private entity to serve as the authorized manufacturer of a digital proof of driver license.

The bill requires AST, in collaboration with DHSMV, to maintain and publish on its website the protocols and standards necessary for a private entity to request authorized access to an application programming interface necessary for the private entity to consume a digital proof of driver license. AST is required to timely review or approve a request for access that meet AST's requirements. Upon approval, AST is directed to designate a private entity as an authorized consumer of digital proofs of driver licenses.

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[1] Section 322.032(1), F.S.
[2] Section 322.032(2), F.S.
[3] *Id.*
[4] *Id.*
[5] Section 322.032(3), F.S.
[6] Section 322.032(4), F.S.
[7] Section 775.082, F.S.
[8] Section 775.083, F.S.
[9] Section 775.084, F.S.
[10] Section 775.082, F.S.

Revenue generated from the manufacture or consumption of a digital proof of driver license must be collected at the point of sale or renewal by an authorized manufacturer of digital proofs of driver licenses and such revenue must be shared with the state on a revenue-sharing basis. Such authorized manufacturer is responsible for remitting 50 percent of all revenue collected for deposit into the Highway Safety Operating Trust Fund. AST, in collaboration with DSHMV, is required to enter into an agreement with such authorized manufacturer that sets forth permitted uses, terms and conditions, privacy policy, and terms relating to the consumption of a digital proof of driver license.

The bill provides that presenting to a law enforcement officer an electronic device displaying a digital proof of driver license does not constitute consent for the officer to access any additional information on the device other than the digital proof of driver license. Additionally, the person presenting the device to the officer assumes liability resulting in any damage to the device.

Agency for State Technology

Current Situation
AST develops and publishes information technology (I.T.) policy for the management of the state's information technology resources, oversees the state's essential technology projects, and manages the State Data Center.[11] AST was established in 2014 within the Department of Management Services (DMS) but is not subject to DMS's control or supervision.[12] AST is headed by an executive director who serves as the state's chief information officer (CIO) and is appointed by the Governor and confirmed by the Senate.

Duties and responsibilities of the AST include:[13]
- Developing and implementing I.T. architecture standards;
- Implementing industry standards and best practices for the State Data Center;
- Providing operational management and oversight of the State Data Center;
- Establishing project management and oversight standards;
- Performing project oversight on I.T. projects with total costs of $10 million or more;
- Reviewing I.T. purchases over $250,000 made by state agencies;
- Identifying opportunities for standardization and consolidation of I.T. services that support common business functions;
- Recommending additional consolidations of agency data centers or computing facilities; and
- Performing project oversight on any cabinet agency I.T. project that has a total project cost of $25 million or more and impacts another agency or agencies.

AST is also required to collaborate with DMS regarding state term contracts.[14] Specifically, AST and DMS are required to collaborate to accomplish the following tasks:
- Establishing an I.T. policy for all I.T. related state contracts and ensuring that the policy is included in all solicitations and contracts which are administratively executed by DMS;
- Evaluating vendor responses for state term contract solicitations and invitations to negotiate;
- Answering vendor questions on state term contract solicitations.[15]

Effect of the Bill
The bill specifies that AST's duty to collaborate with DMS regarding state term contract solicitation only applies to I.T. related solicitations and eliminates the requirement that AST's I.T. state contract policy be included in all solicitations and contracts executed by DMS.

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[11] Section 282.0051, F.S.
[12] Section 20.61, F.S.
[13] Section 282.0051. F.S.
[14] Section 282.0051(18), F.S.
[15] Section 282.0051(18)(a)-(d), F.S.

Uniform Electronic Transaction Act

Current Situation
Section 668.50, F.S., is known as the Uniform Electronic Transaction Act (act). The act applies to electronic records and electronic signatures relating to a transaction.[16] The act does not apply to transactions to the extent they are governed by:

- A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
- The Uniform Commercial Code; or
- The Uniform Computer Information Transactions Act.[17]

Effect of the Bill
The bill establishes "smart contracts" as legally enforceable electronic contracts. The bill defines "smart contract" to mean an event-driven program that runs on a distributed, decentralized, shared, and replicated ledger and can take custody over and instruct the transfer of assets on that ledger.

The bill creates a definition of "blockchain technology."[18] The term "blockchain technology" means a distributed ledger technology that uses a distributed, decentralized, shared, and replicated ledger, which may be public or private, permissioned or permissionless, and driven by tokenized crypto-economics or tokenless. Additionally, the bill specifies that the data on the ledger must be immutable, auditable, protected with cryptography, and provide an uncensored truth.

The bill specifies that the definitions of electronic records and electronic signatures under the act include records and signatures secured through blockchain technology. The bill provides that the use of blockchain technology to secure information while engaged in interstate or foreign commerce does not affect the rights of ownership or use held by the owner of such information unless the terms of the transaction expressly provide for the transfer of such rights.

B. SECTION DIRECTORY:

Section 1 amends s. 282.0051, F.S., relating to the powers and duties of AST.

Section 2 amends s. 322.032, F.S., relating to digital proof of driver license.

Section 3 amends s. 668.50, F.S., relating to the Uniform Electronic Transaction Act.

Section 4 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill provides for a 50 percent revenue share with the state associated with the manufacturer of a digital proof of driver license. However, the fiscal impact is indeterminate at this time.

2. Expenditures:

   The bill has an indeterminate impact on state expenditures relating to the development of protocols and standards for digital driver licenses.

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[16] Section 668.50(2), F.S.
[17] Section 668.50(3), F.S.
[18] Blockchain technology is a secure method of creating and entering into electronic transactions: "It's a shared ledger for recording the history of transaction – that cannot be altered"." *Blockchain 101 Infographic*, IBM, available at https://www-01.ibm.com/common/ssi/cgi-bin/ssialias?htmlfid=XI912346USEN& (last visited 1/20/18).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

   1. Revenues:

      None.

   2. Expenditures:

      None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   Persons who wish to obtain a digital proof of driver license will incur costs associated with obtaining such proof, but the cost is unknown at this time.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

   1. Applicability of Municipality/County Mandates Provision:

      Not Applicable. This bill does not appear to affect county or municipal governments.

   2. Other:

      None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the section of the bill concerning state data centers.

The analysis is drafted to the committee substitute as passed by the Oversight, Transparency, & Administration Subcommittee.