

**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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SJR 792

INTRODUCER: Ethics and Elections Committee and Senator Lee

SUBJECT: Chief Financial Officer

DATE: February 28, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carlton</u>	<u>Ulrich</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	<u>Favorable</u>
3.	<u>McVaney</u>	<u>Hansen</u>	<u>AP</u>	<u>Favorable</u>
4.	<u>Carlton</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SJR 792 is a joint resolution to amend the State Constitution by establishing additional responsibilities for the state's Chief Financial Officer (CFO). Specifically, the resolution provides that the CFO shall participate as a principal in consensus economic, demographic, and revenue estimating conferences. The resolution further provides the CFO with the authority to review and certify, prior to execution, that state contracts in excess of \$10 million comply with state law, include all provisions required by statute, and do not require payment exceeding amounts appropriated or authorized by law.

The Department of Financial Services (DFS) indicates the joint resolution could require a significant impact for the staffing required to perform such tasks within DFS' Division of Accounting and Auditing. In addition, there are two technology options available to implement this change in the review and certification of state contracts: modification of either the Department of Management Services' (DMS) Purchasing Web Site system or modification of the DFS' Florida Accountability Contract Tracking System (FACTS).

The cost of updating the DMS' Purchasing Web Site systems is indeterminate. The DFS estimates the cost of updating FACTS to be in excess of \$1.5 million with licensing and maintenance costs of approximately \$300,000 annually thereafter.<sup>1</sup>

Each house of the Legislature must pass the joint resolution by a three-fifths vote in order for it to be placed on the ballot for approval by the electors. Thereafter, it must be approved by 60 percent of the electors voting. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

## II. Present Situation:

### Chief Financial Officer

The Chief Financial Officer (CFO) is an elected constitutional officer and member of the Cabinet. The CFO's duties, as described by the Florida Constitution, are to serve as the chief fiscal officer of the state, settle and approve accounts against the state, and keep all state funds and securities. The CFO, the Governor, and the Attorney General serve as State Board of Administration. The CFO, the Governor, the Attorney General, and the Commissioner of Agriculture serve as the trustees of the Internal Improvement Trust Fund and as the agency head of the Department of Law Enforcement.<sup>2</sup> The elected CFO, not a designee, serves in these capacities.

Among the CFO's many statutory responsibilities is the responsibility to "examine, audit, and settle all accounts, claims, and demands, whatsoever, against the state, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon."<sup>3</sup> The CFO must also train agency contract managers, and the CFO may audit executed agency contracts.<sup>4</sup>

### Requirement for State Contracts

Chapter 287, F.S., Procurement of Personal Property and Services, contains most of the statutes governing contracting by state agencies. These requirements become more detailed as the value of the contracts increase. Contract documents must also contain provisions required by statute based on the value of goods and services involved or the type of contract.

In some cases, for example, an agency contract must:

- State that agency contractors and subcontractors must comply with the public records laws.<sup>5</sup>
- Include specifications that clearly establish all the tasks that a contractor is required to perform.<sup>6</sup>

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<sup>1</sup> Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).

<sup>2</sup> FLA. CONST. art. IV, s. 4(a), (c), (e), (f), and (g).

<sup>3</sup> Section 17.03(1), F.S.

<sup>4</sup> Sections 287.057(14) and 287.136, F.S.

<sup>5</sup> Section 287.0571(5)(j), F.S.

<sup>6</sup> Section 287.056(1)(a), F.S.

- State that bills for fees or other compensation for services or expenses must be submitted in detail sufficient to allow for a proper preaudit and postaudit of the bills or fees.<sup>7</sup>
- Identify the financial consequences that the agency will apply if the contractor fails to perform the contract.<sup>8</sup>
- Address the property rights in intellectual property related to the contract and the state's rights regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.<sup>9</sup>

If a contract binds the state for longer than one fiscal year, the contract must state that the government's obligation to pay under the contract is contingent upon an annual appropriation by the Legislature.<sup>10</sup>

Generally, an executive or judicial branch entity is prohibited from executing a contract which binds the state for the purchase of services or tangible personal property in excess of \$5 million unless the contract identifies the specific appropriation of state funds from which the state will make payment under the contract in the first year of the contract.<sup>11</sup> This statutory provision recognizes that state agencies are authorized to enter into multi-year contracts.

### **State Planning and Budgeting Processes**

In 1992, the voters approved article III, section 19(a)(1) of the Florida Constitution. This provision requires the Legislature to prescribe by general law "the adoption of annual state budgetary and planning processes." These constitutionally required planning and budgetary processes are set forth in detail in chapter 216, F.S.

In 1985, the Legislature formalized the consensus estimating conference process used to develop the official information for purposes of the state planning and budgeting system.<sup>12</sup> Official information includes data, forecasts, estimates, analyses and studies on a particular matter, and the consensus process requires the unanimous consent of all of the principals of an estimating conference.<sup>13</sup> Once official information is developed by a conference, state agencies and the judicial branch must use the information in carrying out their duties under the state planning and budgetary system.<sup>14</sup>

The principals of a consensus conference include:

- Professional staff of the Executive Office of the Governor who are designated by the Governor;
- The coordinator of the Office of Economic and Demographic Research and other professional staff of EDR which are designated by the coordinator to serve as a principal;
- Professional staff of the Senate designated by the President of the Senate; and

<sup>7</sup> Section 287.058(1)(a), F.S.

<sup>8</sup> Section 287.058(1)(h), F.S.

<sup>9</sup> Section 287.058(1)(i), F.S.

<sup>10</sup> Section 287.0582, F.S.

<sup>11</sup> Section 216.313, F.S.

<sup>12</sup> Section 216.134(1), F.S.

<sup>13</sup> Section 216.133, F.S.

<sup>14</sup> Section 216.135, F.S.

- Professional staff of the House of Representatives designated by the Speaker of the House of Representatives.<sup>15</sup>

The ten consensus estimating conferences and a general description of their areas of responsibility are set forth below:

- **Economic Estimating Conference**—develops official information with respect to the national and state economies, as the conference determines is needed for the state planning and budgeting system. This information includes long-term trend forecasts.<sup>16</sup>
- **Demographic Estimating Conference**—develops official information with respect to the population of the nation and state by age, race, and sex, as the conference determines is needed for the state planning and budgeting system.<sup>17</sup>
- **Revenue Estimating Conference**—develops official information with respect to anticipated state and local government revenues, as the conference determines is needed for the state planning and budgeting system. This information may include estimates of trust fund revenues.<sup>18</sup>
- **Education Estimating Conference**—develops official information relating to the state public and private educational system, including forecasts of student enrollments, the national average of tuition and fees at public postsecondary educational institutions, the number of students qualified for state financial aid programs and for the William L. Boyd, IV, Florida Resident Access Grant Program and the appropriation required to fund the full award amounts for each program, fixed capital outlay needs, and Florida Education Finance Program formula needs, as the conference determines is needed for the state planning and budgeting system.<sup>19</sup>
- **Criminal Justice Estimating Conference**—develops official information relating to the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the conference determines is needed for the state planning and budgeting system.<sup>20</sup>
- **Social Services Estimating Conference**—develops official information relating to the social services system of the state, including forecasts of social services caseloads, utilization, and expenditures, as the conference determines is needed for the state planning and budgeting system. The conference also develops information relating to the Florida KidCare program that the conference determines is needed to plan for and project future budgets and the drawdown of federal matching funds.<sup>21</sup>
- **Workforce Estimating Conference**—develops official information on the workforce development system planning process, as it relates to the personnel needs of current, new, and emerging industries as the conference determines is needed by the state planning and budgeting system. This information must include at least: short-term and long-term forecasts of employment demand for jobs by occupation and industry; entry and average wage forecasts among those occupations; and estimates of the supply of trained and qualified individuals available or potentially available for employment in those occupations, with

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<sup>15</sup> Section 216.134(4)(c), F.S.

<sup>16</sup> Section 216.136(1), F.S.

<sup>17</sup> Section 216.136(2), F.S.

<sup>18</sup> Section 216.136(3), F.S.

<sup>19</sup> Section 216.136(4), F.S.

<sup>20</sup> Section 216.136(5), F.S.

<sup>21</sup> Section 216.136(6), F.S.

special focus upon those occupations and industries which require high skills and have high entry wages and experienced wage levels.<sup>22</sup>

- **Early Learning Programs Estimating Conference**—develops estimates and forecasts of the unduplicated count of children eligible for the school readiness program and of children eligible for the Voluntary Prekindergarten Education Program, as the conference determines are needed to support the state planning, budgeting, and appropriations processes.<sup>23</sup>
- **Self-Insurance Estimating Conference**—develops official information on self-insurance related issues, as the conference determines is needed by the state planning and budgeting system.<sup>24</sup>
- **Florida Retirement System Actuarial Assumption Conference**—develops official information with respect to the economic and noneconomic assumptions and funding methods of the Florida Retirement System necessary to perform the system actuarial study.<sup>25</sup>

### Department of Financial Services

The CFO serves as the head of the Department of Financial Services (DFS), which executes the duties of the CFO. The DFS consists of the following divisions:

- The Division of Accounting and Auditing;
- The Division of State Fire Marshal;
- The Division of Risk Management;
- The Division of Treasury;
- The Division of Insurance Fraud;
- The Division of Rehabilitation and Liquidation;
- The Division of Insurance Agents and Agency Services;
- The Division of Consumer Services;
- The Division of Workers' Compensation;
- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Division of Insurance Consumer Advocate;
- The Division of Funeral, Cemetery, and Consumer Services; and
- The Division of Public Assistance Fraud<sup>26</sup>

Also established within DFS are:

- The Financial Services Commission;<sup>27</sup>
- The Board of Funeral, Cemetery, and Consumer Services;<sup>28</sup> and

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<sup>22</sup> Section 216.136(7), F.S.

<sup>23</sup> Section 216.136(8), F.S.

<sup>24</sup> Section 216.136(9), F.S.

<sup>25</sup> Section 216.136(10), F.S.

<sup>26</sup> s. 20.121(2), F.S.

<sup>27</sup> The Financial Services Commission is composed of the Governor and the Cabinet members and includes the Office of Insurance Regulation and the Office of Financial Regulation. The offices are responsible for activities of the commission relating to regulation and investigation of violations of law relating to insurance and financial institutions. Section 20.121(3)(a), F.S.

<sup>28</sup> The Board of Funeral, Cemetery, and Consumer Services is created within the Division of Funeral, Cemetery, and Consumer Services and regulates licenses issued under ch. 497, F.S. Sections 20.121(4) and 497.103, F.S.

- The Strategic Markets Research and Assessment Unit.<sup>29</sup>

***Florida Accountability Contract Tracking System (FACTS)***

In 2009, the Florida Legislature enacted the Transparency Florida Act.<sup>30</sup> The CFO is required to establish and maintain a secure online contract working system known as the Florida Accountability Contract Tracking System (FACTS).<sup>31</sup> Within 30 calendar days after executing a contract, each state entity<sup>32</sup> is required to post the following information relating to contracts on FACTS:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of the commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;
- Applicable contract performance measures;
- If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any; and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential or exempt information.<sup>33</sup>

Within 30 days of an amendment<sup>34</sup> to an existing contract, state entities must update the information on FACTS.<sup>35</sup>

Current law also requires each state agency<sup>36</sup> to report to DFS, within three working days of executing a contract, the following information relating to certain contracted activities that are not awarded by competitive solicitation:<sup>37</sup>

- The nature of the commodities or services purchased;

<sup>29</sup> The Strategic Markets Research and Assessment Unit creates reports on issues, trends, and threats that broadly affect the condition of the financial services industries. Section 20.121(6), F.S.

<sup>30</sup> Section 215.985, F.S.

<sup>31</sup> Section 215.985(4), F.S. See FACTS website, <https://www.myfloridacfo.com/division/AA/FACTSReporting/default.htm> (last visited February 9, 2018).

<sup>32</sup> The term “state entity” means an official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; a state attorney, public defender, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Justice Administrative Commission; the Public Service Commission; and any part of the judicial branch of state government. Section 215.985(14)(h)2., F.S.

<sup>33</sup> Section 215.985(14)(a), F.S.

<sup>34</sup> An amendment to a contract includes, but is not limited to, a renewal, termination, or extension of the contract or a modification of the terms of the contract. See s. 215.985(14)(b), F.S.

<sup>35</sup> Section 215.985(14)(b), F.S.

<sup>36</sup> The term “state agency” means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. The term includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Section 216.011(1)(qq), F.S.

<sup>37</sup> Agencies must submit the information to DFS for contracts in excess of Category Two (\$35,000) if the goods and services were not purchased by competitive solicitation or from a state term contract. Section 216.011(2), F.S.

- The term of the contract;
- The final obligation made by the agency;
- A summary of any time constraints that apply to the procurement;
- The justification for not using the competitive solicitation, including any statutory exemption or exception; and
- Other information regarding the contract or the procurement that DFS requires.<sup>38</sup>

### **Department of Management Services**

The Department of Management Services (DMS) is the business branch of Florida government. The primary mission of DMS is to support sister agencies and former state employees with workforce and business-related functions. The DMS is divided into two major services areas: Business Operations and Workforce Operations.<sup>39</sup>

Business Operations is responsible for managing general business operations of state government, including:

- State Purchasing;
- Real Estate Development and Management;
- Telecommunications;
- Fleet and Federal Surplus Property; and
- Private Prison Monitoring.<sup>40</sup>

Workforce Operations is responsible for managing the state personnel system, which consists of:

- Human Resource Management;
- People First;
- State Group Insurance; and
- Florida Retirement System.

### ***Division of State Purchasing***

The Division of State Purchasing (division) within the DMS comprises the following areas: State Contracts and Agreements, MyFloridaMarketPlace(MFMP), Public Procurement Professional Development and Office of Supplier Diversity (OSD).

The division procures state contracts and agreements for commodities and services that are frequently used by multiple state agencies.

### ***MyFloridaMarketPlace (MFMP)***

Pursuant to s. 287.057(22), F.S., the DMS is required to maintain a program for online procurement of commodities and contractual services in consultation with the CFO and the Agency for State Technology (AST). The DMS has authority to contract for equipment and services to develop and implement online procurement in consultation with the AST and in

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<sup>38</sup> Section 216.0111(1), F.S.

<sup>39</sup> [https://www.dms.myflorida.com/about\\_us](https://www.dms.myflorida.com/about_us) (last visited February 9, 2018).

<sup>40</sup> [https://www.dms.myflorida.com/about\\_us](https://www.dms.myflorida.com/about_us) (last visited February 9, 2018).

compliance with standards of AST.<sup>41</sup> The DMS is required to adopt rules for the administration of the program for online procurement.<sup>42</sup> The DMS may also impose and collect fees for use of the online procurement system.<sup>43</sup>

The DMS's online procurement program is MyFloridaMarketPlace (MFMP). MFMP is used by the division for formal solicitations (ITB, RFP, and ITN) and by state agencies for informal quotes and electronic invoicing. MFMP allows for the registration of vendors, creation of solicitations by customers, management and display of catalogs for contracted commodities and services, order placement, purchase approvals, invoice reconciliations, and payment approvals. MFMP has been in operation for more than ten years.<sup>44</sup>

The DMS' Purchasing Web Site system holds all the state term contracts. Those contracts are cited by contract ID in MFMP where purchase orders are created, approved, and finalized through a "workflow" engine. Orders are created and then pushed automatically to approvers for review and approval. Purchase order data is sent to the DFS' Florida Accounting Information System (FLAIR)<sup>45</sup> where payments to contractors are made upon confirmation of delivery of the goods or services.<sup>46</sup>

### III. Effect of Proposed Changes:

The joint resolution amends the State Constitution to require the state Chief Financial Officer to:

- Participate as a principal in consensus economic, demographic, and revenue estimating conferences.
- Review and certify that certain state contracts comply with general laws relating to procurement, include all provisions required by general law for such contracts, and do not require payments in any fiscal year in excess of the amount authorized by general law.

#### Principal of estimating conferences

As the joint resolution is drafted, it appears the elected CFO, not a designee, is required to be a principal in the estimating conferences. As a principal, the CFO will be required to attend the various conferences and reach consensus with the other principals on any official information adopted by these estimating conferences.

The Demographic and Economic Estimating conferences each generally meet three times per year. The Revenue Estimating Conference meets at least three times annually in the following subconferences:

<sup>41</sup> Section 287.057(22)(a), F.S. Also, see s. 282.0051(4), F.S. (AST has responsibility to perform project oversight on all state agency information technology project costs of \$10 million or more that are funded in the General Appropriations Act or other law.)

<sup>42</sup> Section 287.057(22)(b), F.S. See Rules 60A-1.030-1.033, F.A.C.

<sup>43</sup> Section 287.057(22)(c), F.S.

<sup>44</sup> See [http://www.dms.myflorida.com/business\\_operations/state\\_purchasing](http://www.dms.myflorida.com/business_operations/state_purchasing) (last visited February 9, 2018).

<sup>45</sup> The Florida Accounting Information Resource (FLAIR) is a double entry, computer-based general ledger accounting system, which is utilized to perform the State of Florida's accounting and financial management functions. <https://flair.dbf.state.fl.us/> (last visited February 9, 2018).

<sup>46</sup> Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).



- Ad valorem taxes;
- Article V fees and transfers;
- Documentary stamp taxes;
- General Revenue;
- Gross Receipts and Communication Services Taxes;
- Highway Safety Fees;
- Indian Gaming Revenues;
- Lottery Revenues;
- Public Education Capital Outlay;
- Slot Machine Revenue;
- Tobacco Settlement;
- Tobacco Taxes and Surcharges;
- Transportation Revenues; and
- Unclaimed Property.

In addition to these subconferences, the Revenue Estimating Conference holds “impact conferences” on legislation filed for consideration by the Legislature. The impact conferences generally occur weekly from mid-September through the end of the legislative Regular Session. After session, the conference meets to finalize the impacts on enacted legislation.

In each case, in order for “official information” to be adopted, all principals of the conference, including the CFO, must unanimously consent. Without unanimous consent, the conference cannot develop official information for the state agencies and judicial branch to use for planning and budgeting purposes.

#### Review and certification of state contracts

Under the joint resolution, the CFO is required to review and certify, before execution, certain state contracts proposed by or on behalf of any state agency, entity, or officer of the executive branch. This provision specifically applies only to state contracts that require a payment or aggregate payments in excess of \$10 million from appropriated funds. This \$10 million threshold will be adjusted for inflation every four years. The joint resolution expressly requires that the processes for review and certification of contracts be established by implementing legislation.

#### *Compliance with state procurement and contracting law*

The purpose of the contract review is to ensure that contracts comply with state procurement law and contain the provisions required by statute. Under current law, state agencies are required to comply with the laws and are subject to bid protests if a vendor claims the agency has failed to comply. It is unclear under the joint resolution whether the CFO can substitute his or her judgment for the judgment of a court who has upheld the agency’s actions during a procurement. If yes, it may raise due process issues for vendors that have sought redress in the courts but have been frustrated by the CFO’s decision regarding compliance.

#### *Requirement for appropriations*

The CFO must also review contracts to ensure that any payments required to be made by the state agency, entity, or officer under the contract in any fiscal year do not exceed the amount appropriated for that fiscal year or the amount authorized by law for the purpose of the contract.

As a practical matter, the Legislature does not typically provide specific appropriations beyond the current fiscal year and next fiscal year. The Legislature does note that some appropriations are intended to be “recurring” in nature. This means that the affected agency can expect to receive a similar appropriation in the next fiscal year; however, it is not the lawful appropriation until the Legislature takes another action (passes the bill actually making that appropriation for the next fiscal year). A strict reading of the joint resolution may not allow the CFO to certify that an appropriation exists in the future years of a multi-year contract unless the Legislature changes its behavior and actually appropriates funds for more than one or two fiscal years. As a result, the application of the joint resolution may reduce the ability of executive branch agencies to enter into multi-year contracts.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, s. 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts use a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”<sup>47</sup>

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

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<sup>47</sup> *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

To the extent that the joint resolution, when implemented by law, ensures that expenditures of public funds comply with law, the public may receive more public goods and services at a lower cost.

**C. Government Sector Impact:****Impact of Contract Reviews**

The pre-execution review of contracts exceeding \$10 million may slow the negotiations for the contracts in some instances. Additionally, the Chief Financial Officer (CFO) will likely need some additional staff to perform the reviews. However, the pre-execution contract reviews may lessen the staff time required for post-execution audits of the contracts.

**Advertising Costs**

The Division of Elections (DOE) is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment is submitted to the electors. The DOE is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments.

According to the DOE, the projected cost to advertise constitutional amendments for the 2018 primary and general election cycle was \$120.31 per word. Using those rates, the cost to advertise this amendment in newspapers and produce booklets for the 2018 general election could be \$76,396.85, at a minimum. This cost estimate is contingent on multiple amendments needing advertising, as there is an inverse relationship between the price per word and the length of the advertisements. If no other amendments need to be advertised, the price per word may be significantly higher. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

Total expenses related to constitutional amendment advertising for the 2018 election cycle are likely to be significant, as the 2018 ballot will include amendments placed there by the Constitutional Revision Commission (when the Commission last met in 1998, 13 amendments were placed on the ballot). Amendments can also be placed on the ballot via the initiative petition process, or by a joint resolution of the Florida Legislature. So far, four amendments will appear on the 2018 ballot.

### **Information Technology Costs**

The Department of Financial Services (DFS) indicates there are two information technology options available to implement the review and certification of agreements of ten million dollars or greater: modification of either the Department of Management Services' (DMS) Purchasing Web Site system or modification of the DFS' Florida Accountability Contract Tracking System (FACTS).

To accommodate the process, the DFS suggests the DMS Purchasing Web Site system could be expanded to include all contracts valued over ten million dollars or MyFloridaMarketPlace (MFMP) or similar site could be modified to include a workflow specifically for DFS' "review and certification" of these contracts before agencies are allowed to use them. The cost of updating the DMS' Purchasing Web Site system is indeterminate.<sup>48</sup> However, DFS states "from an information technology perspective, this approach may be more effective because much of the prerequisite data, similar workflow processes and the inception of many purchases already happen in these systems."<sup>49</sup> DMS may be able to modify workflow, which could be accommodated within existing resources.

In comparison, FACTS has limited functionality and its purpose is retrospective. The DFS indicates updating FACTS to accommodate the contract review process would require substantial modification and augmentation in order to ensure all contracts valued above ten million dollars are uploaded before they are finalized by the agencies and to include a workflow process for review and certification of each. The DFS estimates the cost of updating FACTS to be in excess of \$1.5 million with licensing and maintenance costs of approximately \$300,000 annually thereafter.<sup>50</sup>

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

This joint resolution substantially amends Article IV, section 4 of the Florida Constitution.

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<sup>48</sup> Department of Financial Services, *Analysis of SB 792* (November 29, 2017) (on file with Senate Appropriations Subcommittee on General Government).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Ethics and Elections on January 30, 2018:**

The Committee Substitute differs from the original bill in that it makes technical structural changes and specifically requires the Legislature to implement the changes via implementing legislation.

- B. **Amendments:**

None.

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

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