

**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 Appropriations

---

BILL: SB 1570

INTRODUCER: Senator Hooper

SUBJECT: Information Technology Reorganization

DATE: April 17, 2019

REVISED: 4/19/19

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Favorable</b>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

---

## I. Summary:

SB 1570 makes changes in law relating to state agency information technology. Specifically, the bill:

- Transfers the Agency for State Technology (AST), with all of its existing powers, duties, functions, personnel, records, property, and funds, including the state data center, to the Department of Management Services (DMS) as the newly created Division of State Technology. The bill repeals the statute authorizing the AST.
- Clarifies that the Department of Environmental Protection will review practices related to geospatial data.
- Codifies the Statewide Travel Management System to standardize and maintain records of travel for all state executive and judicial branch agencies.
- Enacts a “cloud-first” policy to require all state agencies to show a preference for cloud-computing systems in their procurements process for new information technology.
- Creates the Cybersecurity Task Force to study cybersecurity procedures, rules, and vulnerabilities and make recommendations thereupon.

The fiscal impact on state expenditures is indeterminate. See Section V.

The bill takes effect July 1, 2019.

## II. Present Situation:

### Agency for State Technology

Chapter 282, F.S., is known as the Enterprise Information Technology Services Management Act.<sup>1</sup>

---

<sup>1</sup> Section 282.003, F.S.

### *General duties*

The Agency for State Technology (AST) was created on July 1, 2014.<sup>2</sup> The executive director of the AST is appointed by the Governor, subject to confirmation by the Senate. The duties and responsibilities of the AST include:<sup>3</sup>

- 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 the Department of Management Services (DMS).
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the 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 the 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.
- 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.
- Establishing policy for all IT related state contracts, including state term contracts for IT commodities, consultant services, and staff augmentation services in collaboration with the DMS.<sup>4</sup> The IT policy must include:
  - Identification of the IT product and service categories to be included in state term contracts;
  - Requirements to be included in solicitations for state term contracts;

---

<sup>2</sup> Chapter 2014-221, L.O.F.

<sup>3</sup> Section 282.0051, F.S.

<sup>4</sup> Chapter 2016-138, L.O.F.

- Evaluation criteria for the award of IT-related state term contracts;
- The term of each IT-related state term contract; and
- The maximum number of vendors authorized on each state term contract.

### ***Chief Information Officer (CIO)***

The AST is headed by an executive director, established in s. 20.61(1) F.S., who serves as the state's chief information officer and is appointed by the Governor and confirmed by the Senate. Current law requires that the state CIO preferably have executive-level experience in both the public and private sectors in development and implementation of information technology strategic planning; management of enterprise information technology projects, particularly management of large-scale consolidation projects; and development and implementation of fiscal and substantive information technology policy.

### ***State Data Center***

The State Data Center is housed within the AST and provides data center services that comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements.<sup>5</sup> The State Data Center must enter into a service-level agreement with each customer entity to provide required type and level of service or services. If a customer fails to execute an agreement within 60 days after commencement of service, the State Data Center may cease service.

State agencies, unless authorized by the Legislature or granted exemption by AST, may not:<sup>6</sup>

- Transfer existing computer services to any data center other than the State Data Center.
- Initiate a new computer service except with the State Data Center.

The State Data Center relies heavily on the use of state-owned equipment installed at the State Data Center facility located in the state's Capital Circle Office Center in Tallahassee for the provision of data center services, often financed through the Department of Financial Services' Consolidated Equipment Financing Program and through lease-purchase arrangements with hardware vendors. This equipment must be replaced periodically, usually around five years.

### ***Information Technology Security***

Section 282.318, F.S., establishes the requirements for the security of data and IT. The AST's duties in regards to IT security include:

- Establishing standards and processes for IT security consistent with generally accepted best practices;
- Adopting rules for IT security;
- Developing a statewide IT security strategic plan, updated annually;
- Developing a framework for use by state agencies for IT security responsibilities, such as conducting IT security risk assessments and reporting IT security incidents;
- Providing IT security training for state agency information security managers; and
- Annually reviewing state agency IT security plans.

---

<sup>5</sup> Section 282.201, F.S.

<sup>6</sup> Section 282.201(5), F.S.

Section 282.318(4)(h), F.S., requires that each state agency head include appropriate IT security requirements in written specifications for the solicitation of IT and IT resources and services that are consistent with the rules and guidelines established by the AST and the DMS.

### ***Cloud-First Policy***

Cloud computing is the delivery of on-demand computing resources, including data center services, software applications, and data storage, over the Internet on a pay-for-use basis. The definition of cloud computing issued by the National Institute of Standards and Technology (NIST) in Special Publication 800-145 is the most broadly adopted definition of cloud computing.<sup>7</sup> The NIST definition describes the essential characteristics of cloud computing, the types of cloud computing service models, and the types of cloud computing deployment models.

Section 282.0051(6), F.S., provides the duty for the AST to collaborate with the DMS to establish best practices for the procurement of IT products in order to reduce costs, increase productivity, or improve services.

Several states including California, Colorado, Illinois, Michigan, and Texas have adopted a cloud-first policy. Some states have cloud strategies and plans with cloud computing components or are in the process of working to formalize policies and standards for cloud services.<sup>8</sup> The federal government has also implemented a cloud-first policy, first adopted by President Obama in 2011<sup>9</sup> and continued by President Trump in 2017.<sup>10</sup>

State agencies (agencies') are taking advantage of cloud services for their Microsoft office products (Outlook, Excel, Word, etc.) and SharePoint services available on state term contracts.<sup>11</sup> These services are easy to implement and can be supported within their current resources. The more difficult cloud solutions to implement are associated with the agencies' business applications. There are several factors when considering a cloud solution for these applications: current and future IT architecture, age of application and modifications needed for transition, current and future security needs, performance, and IT resources needed for on-going support. Specific Appropriation 2920A of ch. 2015-232, L.O.F., required the AST to contract with a third party consulting firm to conduct a study on the cloud readiness of certain applications hosted at the State Data Center. The vendor completed the Cloud Readiness Study (Study) and provided the findings to the AST.<sup>12</sup> The Study was focused on determining which applications currently housed in the State Data Center were capable of being moved to a third-party, infrastructure-as-a-service (IaaS) cloud solution. A review of 931 applications showed that none of the applications were ready for transition to the cloud.

---

<sup>7</sup> SP 800-145, The NIST Definition of Cloud Computing, (9/2011), National Institute of Standards and Technology.

<sup>8</sup> "State Government Practices for Cloud Implementation", (2015), National Association of State Procurement Officials.

<sup>9</sup> "Federal Cloud Computing Strategy", (2011), Vivek Kundra, Office of the U.S. Chief Information Officer.

<sup>10</sup> Executive Order No. 82 FR 22391, 3 C.F.R. 22391-22397 (2017).

<sup>11</sup> Florida Department of Management Services, Microsoft Enterprise Agreement (State and Local) No. 01E73902, (12/2015), [https://www.dms.myflorida.com/content/download/126606/682889/Microsoft\\_Enterprise\\_Agreement\\_\(State\\_and\\_Local\).pdf](https://www.dms.myflorida.com/content/download/126606/682889/Microsoft_Enterprise_Agreement_(State_and_Local).pdf) (last visited Apr. 10, 2019).

<sup>12</sup> Florida Agency for State Technology, *State Data Center Application Cloud Readiness Study*, (Jan. 2016), Grant Thornton. <https://static1.squarespace.com/static/58bd820d86e6c0c5a7193736/t/59ea3b79a9db09cb6e415fe2/1508522879652/Cloud+Readiness+Report+01-15-2016.pdf> (last visited Apr. 10, 2019).

There are two agencies with projects to move their business application to a cloud solution. The Department of Financial Services is replacing the state's accounting and cash management system with a cloud solution.<sup>13</sup> The project will take nine years and is projected to cost a total of \$180 million.<sup>14</sup> The Department of Highway Safety and Motor Vehicles is currently re-engineering its drivers and vehicle licensing systems with a cloud-ready solution.<sup>15</sup> The project will take 10 years to complete and is projected to cost \$77 million.<sup>16</sup> These projects emphasize the scope, complexity, and cost incurred when addressing the agencies' major applications.

In addition, the Department of Children and Families (DCF) has successfully transitioned their Florida Safe Families Network to a cloud infrastructure solution. The project was completed in Fiscal Year 2017-2018 with transition costs totaling approximately \$4 million; the on-going maintenance cost is projected to be \$4.9 million,<sup>17</sup> which increased by \$2.9 million in the first year.<sup>18</sup> Cloud solutions provide scalability and improved performance, but these benefits can often come at an additional cost.

### **Technology Program in the Department of Management Services**

The Technology Program is organized as the Division of Telecommunications (Division) and provides the state enterprise telecommunications system known as the SUNCOM Network. SUNCOM includes voice, data, radio, wiring and cabling, and conferencing service to state agencies, local governments, educational institutions, libraries, and non-profit organizations.<sup>19</sup> The Division also leads Emergency Support Functions (ESF 2)<sup>20</sup> and E-rate<sup>21</sup> and houses the Bureau of Public Safety, which provides Enhanced 911<sup>22</sup> and radio communications services to the state's public safety entities.<sup>23</sup>

---

<sup>13</sup> Department of Financial Services, Florida Palm. <https://www.myfloridacfo.com/floridapalm/> (last visited Apr. 10, 2019).

<sup>14</sup> Department of Financial Services, *Florida Palm Software and System Integrator Contract No.D126*, (July 2018).

<https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=430000&ContractId=D1261> (last visited Apr. 10, 2019).

<sup>15</sup> Department of Highway Safety and Motor Vehicles, available at <https://www.flhsmv.gov/motorist-modernization/>

<sup>16</sup> Department of Highway Safety and Motor Vehicles, *Motorist Modernization Update* (Feb. 6, 2019) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

<sup>17</sup> Department of Children and Families, *Proposal to Move the Florida Safe Families Network Application to a Cloud Computing Service*, (Oct. 30, 2015) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

<sup>18</sup> Department of Children and Families, *Agency Legislative Budget Request Fiscal Year 2018-2019*, D-3A Issue Code 36351C0, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=17138&DocType=PDF> (last visited Apr. 12, 2019).

<sup>19</sup> Section 282.703, F.S.

<sup>20</sup>The DMS, as the lead agency for ESF 2 under the direction of the Division of Emergency Management, is the first point of contract for telecommunications service providers for equipment and services coordination to provide communications support statewide before, during, and after emergencies.

<sup>21</sup> E-Rate is a federal program created to ensure that schools and libraries have affordable access to advance telecommunications services.

<sup>22</sup> Section 365.171, F.S.

<sup>23</sup> Sections 282.709 and 282.7101, F.S.

## **Type Two Transfer**

Section 20.06(2), F.S., provides for type two transfers. 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. A type two transfer preserves the merged entity's statutory powers, duties, rules, and functions, and the merged entity's records, personnel, property, and funds unless specifically severed or abolished. Pursuant to Rule 60L-33.003, F.A.C., if a transfer of an employee is legislatively mandated, the employee retains the status held in the position prior to the time of transfer unless the Legislature directs otherwise. This rule means the employee is transferred to the new entity and retains the employee's status in the originating agency, either probationary status, trainee status, or permanent status.

## **Career Service System**

An employee of the state of Florida will generally fall into one of four categories provided by ch. 110, F.S.:

- Career Service System;
- Senior Management System;
- Volunteers; or
- Selected Exempt Service System.

The systems provide the pay schedules, benefits, and certain policies for each class of employee. Section 110.205, F.S., provides that all non-exempt employees belong to the career service system. Section 110.205(2)(e), F.S., exempts the executive director of the AST from the Career Service System. Section 110.205(n), F.S., allows each department head to designate a maximum of 20 policymaking or managerial positions as being exempt from the Career Service System. A department head may additionally designate one position that directly reports to the department head in the Senior Management Service.

## **Task Force Requirements under s. 20.03, F.S.**

Section 20.03(8), F.S., defines "task force" to mean an "advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem." This provision specifies that the existence of a task force terminates upon the completion of its assignment.

### **III. Effect of Proposed Changes:**

**Section 1** authorizes a type two transfer of the Agency for State Technology (AST) to the Department of Management Services (DMS) pursuant to s. 20.06(2), F.S. This includes transferring all of the AST's powers, duties, functions, records, offices, personnel, property, issues, contracts, authority, rules, funds, etc. Organizationally, the AST structure is merged with the Technology Program within the DMS (see section 3 below). Pursuant to s. 20.06(2)(c), F.S., all administrative rules of the AST remain in effect after the type two transfer.

**Section 2** provides that all contracts and interagency agreements involving the AST are continued following the transfer.

**Section 3** creates the Division of State Technology (Division) within the DMS, directed by the state chief information officer. This Division is a result of a merger of the existing Technology Program and the AST structure. It sets minimum qualifications for the state chief information officer similar to the current qualifications found in s. 20.61, F.S., but adds a 10-year experience requirement.

**Section 4** continues the transfer of certain duties to the Department of Environmental Protection (DEP), relating to geospatial data, beyond the current expiration date of July 1, 2019. The DEP must review policies, practices, and standards related to all geospatial data managed by state agencies and water management districts. The section allows the DEP to adopt rules to that end.

**Section 5** repeals s. 20.61, F.S., which created the AST.

**Section 6** grants rulemaking authority to the DMS relating to the Statewide Travel Management System. The Statewide Travel Management System is defined as the system developed by the DMS to collect data on, standardize and automate travel management for public officers and employees. The section requires all executive branch state agencies and the judicial branch to report travel using the Statewide Travel Management System. The section also states the travel reports may not reveal confidential or exempt information.

**Section 7** changes the short title for ch. 282, F.S., to the “Information Technology Management Act.”

**Section 8** defines the terms “agency assessment,” “breach,” “cloud computing,” “data,” and “open data.”

**Section 9** amends s. 282.0051, F.S., to shift the current statutory powers, duties, and functions of the AST to the DMS. In addition, the section:

- Removes the duty to review all information technology purchases by state agencies which cost \$250,000 or more;
- Requires reports on projected costs for data center services to be sent to the Office of Policy and Budget rather than to each customer entity’s agency head; and
- Adds a duty to recommend methods of standardizing data as well as open data technical standards.

**Section 10** amends s. 282.201, F.S., relating to the State Data Center. The section moves the State Data Center from the AST to the DMS, and provides that the DMS will appoint a director for the State Data Center.

In addition, Section 10 requires the State Data Center to enter into service-level agreements with its customers and establish the costs of each service by agency application.

Section 10 also requires the State Data Center to show a preference for cloud-computing solutions in its procurement process, and it must assist customer entities in transitioning from State Data Center use to third-party cloud-computing services.

**Section 11** creates s. 282.206, F.S., to establish a cloud-first policy for state agencies. This policy provides that, in their procurement processes, each state agency shall show a preference for cloud-computing services that does not require, or minimizes, the use of State Data Center infrastructure. It provides that each agency will create procedures for the evaluation of cloud-computing options and a plan with regards to its use of the State Data Center. Each agency must notify the State Data Center by May 31 and November 30 of each year regarding changes in its use of the State Data Center.

**Section 12** amends s. 282.318, F.S., to transfer the current statutory duties relating to information technology security from the AST to the DMS and requires the DMS to designate a state chief information security officer with experience and expertise in security and risk management for communications and IT resources. Agencies must consult with the DMS regarding their IT and cybersecurity needs.

In addition, section 12 requires agency heads ensure that IT security and cybersecurity requirements are included in both the written specifications for the solicitation and service level agreement of IT and IT resources and services meet or exceed the applicable state and federal standards for IT security and cybersecurity. This section also requires that service level agreements identify service provider and state agency responsibilities for privacy and security, protection of government data, personnel background screening, and security deliverables with associated frequencies.

**Section 13** amends s. 17.0315, F.S., to replace the executive director of the AST with the state chief information officer on the task force established to develop a strategic business plan for a successor financial and cash management system.

**Section 14** amends s. 20.055, F.S., to remove the reference to the AST in the definition of “state agency.”

**Section 15** amends s. 97.0525, F.S., to replace the AST with the DMS in a reference to their risk assessment methodology for identifying security risks.

**Section 16** amends s. 110.205, F.S., to exempt the chief information officer from the state career service. Division heads are separately exempt under s. 110.205(j), F.S. In moving from an agency to a division head position, the AST structure will no longer be provided 20 designated exempt positions. Those positions will fall under the DMS’s umbrella and no longer be exempt unless designated by the head of the DMS.

**Section 17** amends s. 215.322, F.S., to provide the state chief information officer, rather than the AST, must review requests to use electronic collection methods and consult with the chief financial officer on uniform security safeguards for cardholder data.



**Section 18** amends s. 215.96, F.S., to replace the executive director of the AST with the state chief information officer on the coordinating council under the Florida Financial Management Information System Act.

**Section 19** amends s. 287.057, F.S., to replace the AST with the chief information officer as the consulting entity for the DMS maintaining a program for online procurement of commodities and contractual services.

**Section 20** amends s. 282.00515, F.S., replaces the AST with the DMS as the body with whom several departments may contract for various technological services under s. 282.0051, F.S.

**Section 21** amends s. 287.0591, F.S., to replace the executive director of the AST with the state chief information officer as the person who may certify that long term contracts are beneficial to the state. It also states that the Division, rather than the AST, may participate in the DMS's competitive solicitations for information technology commodities, consultant services, or staff augmentation services.

**Section 22** amends s. 365.171, F.S., to replace the Technology Program with the Division in the definition for "office" as used in s. 365.171, F.S., emergency communications number "E911."

**Section 23** amends s. 365.172, F.S., to replace the Technology Program with the Division in the definition for "office" as used in ss. 365.171, 365.172, 365.173, and 365.174, F.S., emergency communications number E911 state plan.

**Section 24** amends s. 365.173, F.S., to replace the Technology Program with the Division as the location of the Emergency Communications Number E911 System Fund created to hold revenue from fees and subscriptions in the E911 system.

**Sections 25 and 26** amend ss. 445.011 and 445.045, F.S., to replace the executive director of the AST with the state chief information officer as the person with whom CareerSource Florida, Inc., shall coordinate.

**Section 27** amends s. 668.50, F.S., to replace the AST with the DMS as the body who may specify various regulations and procedures regarding electronic records under the Uniform Electronic Transaction Act.

**Section 28** amends s. 943.0415, F.S., to replace the AST with the DMS as the body with whom the Cybercrime Office of the Florida Department of Law Enforcement (FDLE) is to consult.

**Section 29** creates the Florida Cybersecurity Task Force (task force) and requires administrative support by the DMS. The task force is to:

- Recommend methods to secure the State's network systems and data;
- Identify and recommend remedy for high-risk cybersecurity issues;
- Recommend a process to regularly assess cybersecurity infrastructure;
- Identify gaps in the state's cybersecurity infrastructure;
- Recommend improvements to the cybersecurity of emergency management and disaster response systems;

- Recommend cybersecurity improvements for the state data center; and
- Recommend improvements relating to the state's operational plans for the response to a cybersecurity attack.

The task force is to be chaired by the Lieutenant Governor or his or her designee, and composed of at least nine additional members, to include:

- A representative of the Computer Crime Center of the FDLE;
- A representative of the Fusion Center of the FDLE;
- The state chief information officer;
- The state chief information security officer;
- A representative of the Division of Emergency Management;
- A representative of the Office of the Chief Inspector General;
- An individual appointed by the President of the Senate;
- An individual appointed by the Speaker of the House of Representatives; and
- Members of the private sector appointed by the Governor.

The task force is required to convene by October 1, 2019, meet at least quarterly, and submit a final report of its findings and recommendations to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2020. The bill abolishes the task force on January 1, 2021.

**Section 30** provides that the bill shall take effect July 1, 2019.

#### **IV. Constitutional Issues:**

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

Not applicable. 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.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

Vendors offering a cloud solution may be more likely to be awarded information technology (IT) procurements under the “cloud-first” policy established in this bill.

**C. Government Sector Impact:**

The fiscal impact of the bill on state expenditures is indeterminate. The “cloud-first” policy may result in increased costs to the state agencies. It appears that state agencies must show some preference to a private vendor providing a cloud-computing solution over a similar cloud-computing solution provided by the State Data Center, without regard to the costs of the procured solution.

The State Data Center may see a decrease in utilization as agencies migrate to the cloud, thus reducing the State Data Center’s assessment for services in the fiscal year proceeding the drop in utilization.

The bill provides for the transfer of 203 positions, \$44,002 from the General Revenue Fund, and \$64.3 million in trust fund authority from the Agency for State Technology to the Department of Management Services.

**VI. Technical Deficiencies:**

**Section 6** amends s. 112.061, F.S., to codify the Statewide Travel Management System. Line 197-198 states the purpose of the system is to “collect and store information relating to public officer and employee travel information.” Public officers and employees, for purposes of chapter 112, F.S., include local government officers and employees as well as state officers and employees. Lines 203-204 require state executive branch agencies and the judicial branch to report travel information on the system. Lines 209-213 require state executive branch agencies and the judicial branch to use the system for travel authorization and reimbursement. If the use of the Statewide Travel Management System is intended to be limited to state public officers and employees, the Legislature may want to consider modifying lines 197-198 to read, “collect and store information relating to state executive branch and judicial branch travel information.”

**Section 16** amends s. 110.205(e), F.S., to exempt the chief information officer from the state career service. Because the chief information officer is the director of the Division of State Technology, that position is exempted pursuant to s. 110.205(j), F.S. Section 16 could simply be repealed so that no confusion occurs.

**Section 29** creates the Florida Cybersecurity Task Force (task force) within the Department of Management Services (DMS). Lines 1460-1461 of the bill state that the task force will operate in a manner consistent with s. 20.052, F.S. Section 20.052, F.S., and requires the private citizen

members of an advisory body that is adjunct to an executive branch agency to be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. If the task force must operate consistent with this requirement, the appointments by the President of the Senate and the Speaker of the House of Representatives may not be private citizens (most likely must be members of the Legislature).

The task force is composed of a representative of the Florida Department of Law Enforcement (FDLE) Computer Crime Center, a representative of the FDLE Fusion Center, the state chief information officer and the state chief information security officer, and others. These four state employees may have an on-going working relationship required to effectively accomplish their various job duties. However, as a member of the same advisory body, subject to public meetings requirements, these four state employees may not be able to communicate for their normal job duties if their discussions include topics addressed by the task force.

## VII. Related Issues:

**Section 11** establishes a “cloud-first” policy for state agencies. The state agencies are directed to “show a preference for cloud-computing solutions that either minimize or do not require the use of state data center infrastructure when cloud-computing solutions meet the needs of the agency, reduce costs, and meet or exceed the applicable state and federal laws, regulations, and standards for information technology (IT) security.” From the client agency’s point of view, the state data center may be providing “cloud-computing.” Stated another way, this cloud-first policy appears to direct state agencies to show a preference for private vendors providing cloud-computing over the state data center providing cloud-computing with new infrastructure. This may result in the client agency paying higher costs for IT solutions to the extent that the state data center solution is less expensive than the private vendor solution.

**Section 29** creates the Florida Cybersecurity Task Force to review various IT security issues. Pursuant to s. 20.052(5)(c), F.S., a meeting of an advisory body is a public meeting under s. 286.011, F.S., unless otherwise authorized. The public nature of the meetings may hinder open communication among the task force members. Section 286.0113, F.S., provides that a portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential by s. 119.071(3)(a), F.S., is exempt from the public meetings requirements of s. 286.011 and s. 24(b), Art. I of the State Constitution. However, most of the IT security information is made confidential and exempt under the provisions of s. 282.318, F.S. Thus, the exemption from public meetings requirements does not appear to apply.

Likewise, there is a concern regarding the use of confidential and exempt information by the task force, particularly if persons not employed by the state are appointed to the task force. Information relating to IT security is typically confidential and exempt. Such information may be available to the Auditor General, the Cybercrime Office, the Chief Inspector General, and now, under the bill, the Division of State Technology of the Department of Management Services (DMS). It is unclear whether state agencies will be permitted to share confidential and exempt information with the task force. Note that the task force is adjunct to the DMS and is not related to the Division of State Technology. The Florida Department of Law Enforcement (FDLE) has recommended incorporating language into the task force providing that any confidential or

exempt information the task force obtains remains confidential or exempt in the hands of the task force.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.22, 20.255, 112.061, 282.003, 282.0041, 282.0051, 282.201, 282.318, 17.0315, 20.055, 97.0525, 110.205, 215.322, 215.96, 287.057, 282.00515, 287.0591, 365.171, 365.172, 365.173, 445.011, 445.045, 668.50, and 943.0415.

This bill creates section 282.206 of the Florida Statutes.

This bill repeals section 20.61 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.