

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: HB 5301 PCB GOT 19-01 Information Technology Reorganization
SPONSOR(S): Government Operations & Technology Appropriations Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1570

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N	Mullins	Topp
1) Appropriations Committee	24 Y, 0 N	Mullins	Pridgeon
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Approved			
112 Y's 0 N's			

SUMMARY ANALYSIS

HB 5301 passed the House on April 4, 2019, and subsequently passed the Senate on May 3, 2019. The bill makes changes in law relating to state agency information technology (IT) and restructures IT governance within the executive branch. Specifically, the bill:

- Renames the Technology Program within the Department of Management Services (DMS) as the Division of State Technology and establishes a state chief information officer (CIO) appointed by the Secretary of DMS to lead the division.
- Authorizes a type two transfer of duties and responsibilities of the Agency for State Technology (AST) to DMS. Amends various statutes to place AST functions within DMS.
- Creates a cloud-first policy for state agencies, requiring each agency to first consider cloud computing solutions when sourcing technology.
- Requires the State Data Center (SDC) and state agencies to show preference in procurement for cloud computing solutions that either minimize or do not require the use of the State Data Center.
- Removes both the requirements for state agencies to utilize the State Data Center when initiating new computer services and the limitation prohibiting state agencies from transferring existing computer services to any data center other than the State Data Center.
- Creates the Florida Cybersecurity Task Force to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations.
- Increases the qualification requirements for the state CIO and provides qualification requirements for the State Data Center Director and State Chief Information Security Officer.
- Designates the Department of Environmental Protection (DEP) as the state coordinating agency for Geographic Information Systems (GIS) and geospatial data.
- Provides authority in statute to allow DMS to bill administrative costs of the agency to State Data Center customer agencies. Currently, the law provides that only data center services may be billed to customer agencies.
- Establishes the Statewide Travel Management System developed by DMS in law and requires all executive branch state government agencies and the judicial branch to use the system for purposes of travel authorization, reimbursement, and reporting.

The bill was approved by the Governor on June 24, 2019, ch. 2019-118, L.O.F., and became effective on July 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Information Technology Duties and Responsibilities of the Agency for State Technology and the Department of Management Services

Current Situation

In 2014, the Legislature created the Agency for State Technology (AST) to oversee policies for the design, planning, project management, and implementation of enterprise IT services.¹

The AST is managed 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. Current law requires that the state CIO preferably have executive-level experience in both the public and private sectors in development and implementation of IT strategic planning; management of enterprise IT projects, particularly management of large-scale consolidation projects; and development and implementation of fiscal and substantive IT policy.

Duties and responsibilities of the AST include:²

- developing and implementing IT architecture standards,
- implementing industry standards and best practices for the state data center,
- establishing project management and oversight standards,
- performing project oversight on IT projects with total costs of \$10 million or more,
- providing operational management and oversight of the State Data Center,
- reviewing IT purchases over \$250,000 made by state agencies,
- identifying opportunities for standardization and consolidation of IT services that support common business functions,
- recommending additional consolidations of agency data centers or computing facilities, and
- performing project oversight on any cabinet agency IT project that has a total project cost of \$25 million or more and impacts another agency or agencies.

In recent years, the AST encountered fiscal challenges in the area of financial management that has required annual action by the Legislature to remedy. Specifically:

- In FY 2016-17, AST over-billed the customer entities by over \$1.2 million.³ The Department of Children and Families alone was over-billed by the sum of \$1.0 million. The FY 2018-2019 House Proposed General Appropriations Act (GAA) included the funding (\$641,494 in General Revenue and \$528,606 in AST's Working Capital Trust Fund) to repay the 18 customer entities the funds that were over-billed.
- In FY 2015-16, AST over-billed the customer entities by over \$5.3 million, utilizing a cash accounting methodology.⁴ The extensive over-billing required the AST to move from a cash accounting methodology to an accrual accounting methodology. In response, the Legislature, in the FY 2017-18 GAA, moved AST to an assessment model whereas the customer entities are simply billed based on the prior year's actual expenditures.

¹ Ch. 2014-221, Laws of Fla.

² Ch. 282.0051, F.S.

³ FY 2016-2017 True Up Summary Report, (12/1/2017), AST

⁴ FY 2015-2016 True Up Summary Report, (11/8/2016), AST

- In FY 2014-15, AST over-spent the data center budget by \$1.7 million. The Florida Legislature appropriated the AST an additional \$1.7 million to resolve the prior year outstanding invoices in the FY 2015-16 GAA.⁵

Section 282.0051, F.S., requires the AST to establish a consolidated administrative support structure that is responsible for the provision of financial management, procurement, transactions involving real or personal property, human resources, and operational support for the State Data Center (SDC).

Section 282.0051, F.S., requires that the AST develop and implement cost-recovery mechanisms that recover the full direct and indirect cost of services through charges to applicable customer entities. Current statute allows only data center services to be cost-recovered.

To address AST's fiscal and financial management issues, Section 54 of the 2018 GAA Implementing Bill⁶ transferred the Agency for State Technology Budget and Policy Section, Cost Recovery Section, and administrative rules in chapter 74-3, F.A.C. to the DMS for FY 2018-19. Section 55 of the 2018 GAA Implementing Bill⁷ amended s. 20.22, F.S., to direct the DMS to provide financial management oversight and legislative budget request support to AST. The FY 2018-19 GAA transferred the five positions in these sections and the associated salary rate and budget authority to DMS.

While previously funded by General Revenue, in the current year, the AST's administration (the Executive Direction Budget Entity) is funded by billing SDC customer agencies. However, there is no statutory authority for this arrangement,⁸ as current law provides that only data center services may be billed to customer agencies.⁹

The Technology Program at DMS, organized within the department as the Division of Telecommunications (DivTel), provides the state enterprise telecommunications system known as the SUNCOM Network, which includes voice, data, radio, wiring and cabling, and conferencing service to state agencies, local governments, educational institutions, libraries, and non-profit organizations.¹⁰ The division also leads Emergency Support Functions (ESF 2),¹¹ E-rate,¹² and houses the Bureau of Public Safety, which provides Enhanced 911¹³ and radio communications services to the state's public safety entities.¹⁴

Effect of Changes

The bill revises the IT governance structure of the executive branch and the qualifications of the state CIO. Specifically, the bill:

- renames the Technology Program within DMS as the Division of State Technology,
- establishes a state CIO appointed by the Secretary of DMS to lead the division,

⁵ Ch. 2015-232 s. 89, Laws of Fla.

⁶ Ch. 2018-10, Laws of Fla.

⁷ *Id.*

⁸ HB 5301, which included the necessary statutory authority, was passed by the 2017 Legislature and vetoed by the Governor on 6/26/2017.

⁹ S. 282.0051, F.S.

¹⁰ S. 282.703, F.S.

¹¹ DMS, as the lead agency for ESF 2 under the direction of the Division of Emergency Management, is the first point of contact for telecommunications service providers for equipment and services coordination to provide communications support statewide before, during, and after emergencies or disasters.

¹² E-Rate is a federal program created to ensure that schools and libraries have affordable access to advanced telecommunications services.

¹³ S. 365.171, F.S.

¹⁴ Ss. 282.709 and 282.7101, F.S.

- repeals sections of law establishing the AST,
- authorizes a type two transfer of the duties and responsibilities of AST to DMS, and
- revises the qualifications for the state CIO by requiring at least 10 years of executive-level experience in either the public or private sector, with preferable experience in the development of IT strategic planning and the development and implementation of fiscal and substantive IT policy and standards.

The bill retains the duties and responsibilities of the AST in the transfer of the agency to DMS, except for the changes necessary to align those duties with the cloud-first policy established in the bill and to remove similar procurement responsibilities already authorized at DMS. These changes include:

- removing the responsibility of recommending additional consolidations of agency data centers or computing facilities,
- requiring DMS to establish best practices for the procurement of cloud computing services, and
- removing the responsibility to review state agency technology purchases over \$250,000.

The bill amends definitions in s. 282.0041, F.S., to allow for the cost recovery of AST executive direction (administrative functions) through charges to state data center customer entities.

Cloud-First Policy

Current Situation

In 2008, the Legislature created the State Data Center system, established two primary data centers, and required that agency data centers be consolidated into the primary data centers by 2019¹⁵. Data center consolidation was completed in FY 2013-14. In 2014, the two primary data centers were merged in law to create the SDC within the AST.¹⁶

State agencies, unless authorized by the Legislature or granted exemption by AST, may not:¹⁷

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

The SDC relies heavily on the use of state-owned equipment installed at the SDC 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. AST has identified \$43.1M in SDC equipment inventory currently financed or leased.¹⁸

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.¹⁹ 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.

¹⁵ Ch. 2008-116, Laws of Fla.

¹⁶ Ch. 2014-221, Laws of Fla.

¹⁷ S. 282.201 (5), F.S.

¹⁸ State Data Center Inventory for proviso in 2017-70 s. 2924-2944, Laws of Florida, submitted on 12/15/2017 by AST (on file with the subcommittee).

¹⁹ [SP 800-145, The NIST Definition of Cloud Computing. \(9/2011\), National Institute of Standards and Technology.](#)

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

Cloud Computing Policies at the Federal Level and Other States

California, Colorado, Illinois, Michigan, and Texas have adopted a cloud-first policy.²⁰ Virginia also adopted a cloud-first policy by executive order on September 17, 2018.²¹ 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.²²

The federal government has also implemented a cloud-first policy, first adopted by President Obama in 2011²³ and continued by President Trump in 2017.²⁴

Effect of Changes

The bill repeals the outdated intent language originally created in 2008 for data center consolidation and creates intent language in a new section of law establishing a cloud-first policy for state agencies. Specifically, the bill:

- Requires each agency to adopt a cloud-first policy that first considers cloud computing solutions in its technology sourcing strategy for technology initiatives or upgrades whenever possible or feasible.
- Requires the SDC and state agencies to show preference in procurement for cloud computing solutions that either minimize or do not require the use of the SDC.
- Includes the definition of cloud computing as defined in Special Publication 800-145 issued by NIST.
- Requires agencies to notify the SDC, by May 31 and November 30 of each year, of any significant changes in anticipated usage of State Data Center services.
- Requires agencies to develop a strategic plan updated annually to address its software applications located at the SDC. The plan for each application must identify and document the readiness, appropriate strategy, and high-level timeline for transition to a cloud service based on the application's quality, cost, and resource requirements.
- Requires DMS to appoint a SDC director who has experience in leading data center facilities and cloud computing management.
- Removes the limitation prohibiting state agencies from transferring existing computer services to any data center other than the SDC.
- Removes the requirement for state agencies to initiate a new computer service only with the SDC.
- Removes the outdated schedule and transition process for data center consolidation in s. 282.201 (4), F.S.
- Amends the AST duty in s. 282.0051 (6), F.S., to recommend best practices for the procurement of IT products to include cloud computing services.

Information Technology Security

Current Situation

²⁰ Email from Pamela Greenberg, Senior Fellow, National Conference of State Legislatures, to Government Operations & Technology Appropriations Subcommittee staff on 1/12/2018 (on file with the subcommittee).

²¹ [Virginia Executive Order No. 19 Cloud Service Utilization and Readiness \(2018\)](#).

²² ["State Government Practices for Cloud Implementation", \(2015\), National Association of State Procurement Officials.](#)

²³ ["Federal Cloud Computing Strategy", \(2011\), Vivek Kundra, Office of the U.S. Chief Information Officer.](#)

²⁴ [Executive Order No. 82 FR 22391, 3 C.F.R. 22391-22397 \(2017\).](#)

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.
- Annually reviewing state agency IT security plans.

Florida currently does not define or specifically address cybersecurity in statute, instead defining IT security. The state's current IT security structure and approach is decentralized and fragmented among individual state agencies – AST, the Florida Department of Law Enforcement (FDLE), and the Division of Emergency Management (DEM). Some entities involved in IT security are established in statute with defined responsibilities, such as the FDLE Cybercrime Office in s. 943.0415, F.S., and state agencies, but others are not, such as the FDLE Fusion Center. Current statutes require the development and implementation of several types of plans to include IT security plans, continuity of business plans, and emergency management plans.

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 DMS.

Effect of Changes

The bill requires DMS to designate a state CIO with experience and expertise in security and risk management for communications and IT resources.

The bill creates the Florida Cybersecurity Task Force administratively supported by DMS to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations. The task force consists of the following members:

- A representative of the Florida Computer Crime Center at FDLE appointed by the executive director of the department.
- A representative of the Florida Fusion Center at FDLE appointed by the executive director of the department.
- The state CIO.
- The state chief information security officer.
- A representative of DEM in the Executive Office of the Governor appointed by the director of the division.
- A representative of the Office of the Chief Inspector General in the Executive Office of the Governor appointed by the Chief Inspector General.
- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House of Representatives.
- Members of the private sector appointed by the Governor.
- Lieutenant Governor, who will serve as the Chair.

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.

The bill amends s. 282.318 (4)(h), F.S., requiring agency heads to ensure that IT security and cybersecurity requirements 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. New language in this subsection 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.

Open Data

Current Situation

Open data means data collected or created and structured in a way that enables the data to be freely used by the public.

Both the FY 2017-18 GAA and FY 2018-19 GAA funded a Chief Data Officer and included the following open data responsibilities in proviso language for the AST;

- Developing an enterprise data inventory and a process for agencies to submit data to the AST,
- Recommending state agency data standards and open data standards, and
- Recommending options for developing and maintaining a state open data catalog.

Effect of Changes

The bill provides definitions for open data terms and requires DMS to recommend open data technical standards and terminologies for use by state agencies. The bill also requires DMS to recommend potential methods for standardizing data across state agencies that will promote interoperability and reduce the collection of duplicative data.

Geospatial Data Coordination

Current Situation

The FY 2017-18 GAA funded a Geographic Information Officer at the AST. One additional position, a research administrator, was provided in support of this function. No other resources are provided to AST for this subject matter, nor are any duties or responsibilities defined in law. The FY 2018-19 GAA transferred these two staff to the Department of Environmental Protection (DEP).

Section 56 of the 2018 GAA Implementing Bill²⁵ amended s. 20.255, F.S., for FY 2018-19 by designating DEP as the lead agency of the Executive Branch for the development and review of policies, practices, and standards related to geospatial data. The bill also appoints DEP to coordinate and promote geospatial data sharing throughout state government and serve as the primary point of contact for statewide geographic information systems projects, grants, and resources.

Effect of Changes

The bill codifies in statute current implementing bill language that designates DEP as the lead agency for geospatial data coordination. The bill also authorizes DEP to adopt rules to implement this function.

²⁵ Ch. 2018-10, Laws of Fla.

In addition to the two positions transferred from AST, DEP currently has 18 geographic information systems (GIS) staff and maintains an extensive mapping and spatial data library, including a public mapping application and an open data portal for geospatial data on the Internet.

Examples of states that have established state geospatial data coordination within an environmental or natural resources agency include Alaska, Arizona, Missouri, and South Carolina. Other states place the function within coordinating committees, central IT agencies, universities, and administration/planning departments.

Statewide Travel Management System

Current Situation

The FY 2016-2017 GAA appropriated \$1,800,000 in recurring General Revenue funding to the Executive Office of the Governor (EOG) to acquire a Statewide Travel Management System (system). The EOG was required to undertake a competitive procurement for the system pursuant to s. 287.057, F.S. Additionally, \$2,800,000 in nonrecurring General Revenue funding was provided to executive branch state agencies and the judicial branch for their portion relating to implementation of the system.

The system was required to be able to electronically:

- Interface with the Florida Accounting Information Resource Subsystem (FLAIR);
- Interface with the Personnel Information System (PeopleFirst);
- Generate uniform travel authorization request and travel voucher forms pursuant to s. 112.061, F.S.; and,
- Receive approvals for travel.

The system was also required to include search features that query travel information by specific criteria. Additionally, proviso in the FY 2016-2017 GAA required EOG and the Legislature to have access to the system for purposes of generating reports on all travel completed by executive branch state agencies and the judicial branch.

The EOG directed the DMS to become the lead agency on procuring and establishing the system. The FY 2017-2018 GAA appropriated the \$1,800,000 recurring General Revenue funding to the Department of Management Services for the operation and maintenance of the system.

Section 62 of the 2018 GAA Implementing Bill²⁶ for FY2018-19 requires EOG to collaborate with DMS to implement the system and also requires all executive branch state agencies and the judicial branch to use the system.

Section 112.061(9), F.S., authorizes rulemaking authority pertaining to s. 112.061, F.S.

Effect of Changes

The bill amends s.112.061, F.S., to require use of the system by all executive branch state agencies and the judicial branch. Specifically, the bill:

- Establishes the “Statewide Travel Management System” as the system used by DMS to:
 - Collect and store information relating to public officer or employee travel information;
 - Standardize and automate agency travel management;
 - Allow for travel planning and approval, expense reporting, and reimbursement; and,
 - Allow travel information queries.

²⁶ Ch. 2018-10, Laws of Fla.

- Requires that each executive branch state government agency and the judicial branch must use the system for:
 - Travel authorization;
 - Travel reimbursement; and,
 - Reporting all public officer and employee travel information, including, but not limited to:
 - Name and position title;
 - Purpose of travel;
 - Dates and location of travel;
 - Mode of travel;
 - Confirmation from the head of the agency or designee authorization, if required; and,
 - Total travel cost.
- Provides that travel reports made available on the system may not reveal information made confidential or exempt by law.
- Amends s. 112.061(9), F.S., providing that the DMS may adopt rules to administer the provisions of this section relating to the Statewide Travel Management System.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the SDC and state agencies to each adopt a cloud-first policy in its technology sourcing strategy and show preference in procurement for cloud computing solutions that either minimize or do not require the use of the SDC whenever possible or feasible, which should reduce SDC costs in subsequent years.

D. FISCAL COMMENTS:

The FY 2019-20 General Appropriations Act appropriated 203 positions and \$63,225,910 in budget authority to the AST. As authorized in the bill, DMS may request a type two transfer by budget amendment of AST's appropriations and positions to DMS based on the provisions of the bill and pursuant to section 20.06, F.S. and chapter 216, F.S.