

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5301 PCB GOT 17-01 State Agency Information Technology Reorganization
SPONSOR(S): Government Operations & Technology Appropriations Subcommittee, Ingoglia
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations & Technology Appropriations Subcommittee	13 Y, 1 N	Mullins	Topp
1) Appropriations Committee	27 Y, 0 N	Mullins	Leznoff

SUMMARY ANALYSIS

The bill restructures the information technology (IT) governance structure within the executive branch. Specifically, the bill:

- Creates the Office of Technology and Data Solutions (OTDS) within the Department of Management Services (DMS) and establishes a state chief information officer (CIO) who is appointed by the Governor and confirmed by the Senate.
- Establishes six other positions within the OTDS to include a chief data officer, a chief information security officer, a senior project manager, two senior management analysts, and an administrative assistant.
- Authorizes a type two transfer of all records, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 74-1 and 74-2, Florida Administrative Code, pending issues, and existing contracts of the Agency for State Technology (AST) to the OTDS.
- Authorizes a type two transfer of the State Data Center from the AST to the DMS.
- Defines the duties and responsibilities of the OTDS to include:
 - developing and recommending IT policy,
 - recommending IT improvements for the delivery of state government services and information,
 - establishing project management and oversight standards,
 - reviewing state agency project oversight deliverables on IT projects with total costs of \$10 million or more,
 - reviewing project oversight deliverables on cabinet agency IT projects that have a total project cost of \$25 million or more and impact another agency or agencies,
 - recommending improvements for state agency and cabinet agency IT projects and project oversight,
 - recommending best practices for the procurement of commercial cloud computing services,
 - recommending IT policy for all IT-related state contracts, including state term contracts,
 - developing an enterprise data inventory and a process for agencies to submit data to the OTDS,
 - recommending state agency data standards and open data standards, and
 - recommending options for developing and maintaining a state open data catalog.
- Requires the State Data Center and state agency customer entities to utilize commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses.
- Creates the Florida Cybersecurity Task Force to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations.
- Repeals sections of law relating to the AST.
- Conforms to the proposed House of Representatives' FY 2017-2018 General Appropriations Act, which reduces \$7.9 million in funding to eliminate the AST and transfers the State Data Center to DMS.
- Appropriates a total of \$1.8 million and seven full-time equivalent positions to the OTDS for Fiscal Year 2017-2018.

The bill is effective July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Office of Technology and Data Solutions

Current Situation

In 2014, the Legislature created the Agency for State Technology to oversee policies for the design, planning, project management, and implementation of enterprise IT services¹.

The AST is headed by an executive director 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.

Duties and responsibilities of the AST include:²

- developing and implementing IT architecture standards,
- 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,
- 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 \$50 million or more and impacts another agency or agencies.

Effect of Changes

The bill eliminates the AST by repealing the section of law establishing the agency and creates the Office of Technology and Data Solutions. Specifically, the bill:

- Creates the Office of Technology and Data Solutions (OTDS) within the Department of Management Services (DMS) and establishes a state chief information officer who is appointed by the Governor and confirmed by the Senate.
- 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 experience in the development of information technology strategic planning and the development and implementation of fiscal and substantive information technology policy and standards.
- Establishes six other positions within the OTDS to include a chief data officer, a chief information security officer, a senior project manager, two senior management analysts, and an administrative assistant.
- Authorizes a type two transfer of all records, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 74-1 and 74-2, Florida Administrative Code, pending issues, and existing contracts of the Agency for State Technology (AST) to the OTDS.
- Authorizes a type two transfer of the State Data Center from the AST to the DMS.

Duties and responsibilities of the OTDS include:

- developing and recommending IT policy,

¹ 2014-221, Laws of Florida.

² Section 282.0051, Florida Statutes.

- recommending IT improvements for the delivery of state government services and information,
- establishing project management and oversight standards,
- reviewing state agency project oversight deliverables on IT projects with total costs of \$10 million or more,
- reviewing project oversight deliverables on cabinet agency IT projects that have a total project cost of \$25 million or more and impact another agency or agencies,
- recommending improvements for state agency and cabinet agency IT projects and project oversight,
- recommending best practices for the procurement of commercial cloud computing services,
- recommending IT policy for all IT-related state contracts, including state term contracts,
- developing an enterprise data inventory and a process for agencies to submit data to the OTDS,
- recommending state agency data standards and open data standards, and
- recommending options for developing and maintaining a state open data catalog.

The bill also amends the section of law defining the duties of the cabinet agencies³ by requiring cabinet agencies by January 1, 2018, to submit project oversight deliverables to the OTDS for all IT projects with a total project cost of \$25M or more and that impact one or more other agencies.

Technology Advisory Council

Current Situation

The Technology Advisory Council is established within the AST⁴ pursuant to s. 20.052, F.S. The council is comprised of seven members; four members are appointed by the Governor, two of whom must be from the private sector; and one member each is appointed by the President of the Senate, the Speaker of the House of Representatives, and the Cabinet. All appointments are 4-year terms. The council may make recommendations to the executive director of the AST on matters pertaining to enterprise IT policies, standards, services, and architecture. The executive director of the AST must consult with the council with regard to executing AST's duties that relate to statewide IT strategic planning and policy.

The Council has met only once since being established in law, in 2016.

Effect of Changes

The bill repeals the section of law that establishes the Technology Advisory Council.

The State Data Center

Current Situation

In 2014, the Legislature merged two existing primary state data centers to create the State Data Center, established within the AST, to provide data center services that are hosted either on premises or externally through a third-party provider⁵. The data center director is appointed by the AST executive director. The State Data Center must comply with all applicable state and federal laws, regulations and policies. The State Data Center's duties include:

- Entering into service level agreements with each customer entity.
- Developing and implementing a business continuity plan and a disaster recovery plan and annually conducting a live exercise of each plan.
- Maintaining the performance of the State Data Center.
- For purposes of chapter 273, being the custodian of resources and equipment consolidated and located within the State Data Center.

³ Section 282.00515, Florida Statutes.

⁴ Section 20.61, Florida Statutes.

⁵ Section 282.201, Florida Statutes.

- Assuming administrative access rights to resources and equipment consolidated into the State Data Center.

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.

Effect of Changes

The bill amends s. 282.201, F.S., establishing the State Data Center within AST and establishes the State Data Center within the DMS by authorizing a type two transfer of the State Data Center from the AST to the DMS. The bill provides for the Secretary of DMS to appoint a State Data Center director who has experience in leading data center facilities and cloud computing management. The DMS State Data Center duties include:

- Developing and implementing appropriate operating guidelines and procedures necessary for the State Data Center to perform its duties.
- Developing and implementing a cost-recovery mechanism that recovers the full direct and indirect cost of services through applicable charges to customer entities.
- Entering into service level agreements with each customer entity.
- Developing and implementing a business continuity plan and a disaster recovery plan and annually conducting a live exercise of each plan.
- Maintaining the performance of the State Data Center.
- For purposes of chapter 273, being the custodian of resources and equipment consolidated and located within the State Data Center.
- Assuming administrative access rights to resources and equipment consolidated into the State Data Center.

The bill also amends s. 282.201, F.S., defining the duties of the State Data Center by requiring use of commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses. Additionally, the bill requires the State Data Center to report biennially on the use of cloud computing by state agency customer entities.

The bill creates a new section of law defining the duties of state agency customer entities. Duties of state agency customer entities include:

- Notifying the State Data Center, by May 31 and November 30 of each year, of any significant changes in anticipated usage of State Data Center services.
- Developing a plan updated annually to address its software applications located at the State Data Center. The plan includes the following components:
 - The appropriate strategy for each application to migrate to a commercial cloud computing service.
 - A high-level migration timeline by fiscal year for each application.
 - For each application that may begin migration activities, a proposed project and budget estimate for the migration project and a cost benefit analysis validating that a commercial cloud computing service can reduce customer entity data center costs, deliver the same or improved levels of service, and meet or exceed the applicable state and federal standards for IT security.
- Utilizing a commercial cloud computing service when developing, upgrading, or purchasing software, when a cost benefit analysis confirms that a commercial cloud computing service can deliver the same or improved levels of service, and meet or exceed the applicable state and federal standards for IT security.

Agency Data Center Consolidations

Current Situation

In 2012, the Legislature amended the agency data center consolidation schedule and provided an exemption from data center consolidation to certain agencies.⁶ Additionally, the Implementing Bill for the Fiscal Year 2013-2014 General Appropriations Act⁷ modified the data center consolidation schedule in s. 282.201(4), F.S.

Agencies scheduled for consolidation are required to submit a transition plan to the data center by July 1 of the fiscal year before the fiscal year the scheduled consolidation will occur. State agencies are required to execute a new or update an existing service-level agreement within 60 days after the specified consolidation date.

All agencies that were required to consolidate into the State Data Center completed their consolidation activities by the dates specified in law.

Effect of Changes

The bill amends s. 282.201, F.S. by removing subsections (1) and (4) that establish the legislative intent for data center consolidation and the schedule for consolidations of agency data centers.

Information Technology Security

Current Situation

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

- Establishing standards and processes for IT security consistent with generally accepted best practices
- Adopt 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
- Provide IT security training for state agency information security managers
- Annually review 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.

Effect of Changes

The bill generally replaces the AST with the OTDS in regards to existing IT security duties.

The bill creates the Florida Cybersecurity Task Force administratively supported by the FDLE 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 computer crime center of the Florida Department of Law Enforcement appointed by the executive director of the department.

⁶ 2012-142, Laws of Florida.

⁷ 2013-41, Laws of Florida.

- A representative of the fusion center of the Florida Department of Law Enforcement appointed by the executive director of the department.
- The chief information security officer of the Office of Technology and Data Solutions.
- A representative of the Division of Telecommunications of the Department of Management Services appointed by the secretary of the department.
- A representative of the Division of Emergency Management 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.

The task force is required to 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, 2018.

Information Technology Procurement

Current Situation

Section 282.0051, F.S. requires the AST to advise and collaborate with the DMS in conducting competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.

Effect of Changes

The bill requires the OTDS to collaborate with the DMS to recommend best practices for the procurement of commercial cloud computing services and to recommend IT policy for all IT-related state term contracts.

Repealed Sections of Law

Current Situation

Section 20.61 creates the AST within the DMS, establishing the executive director as the state's chief information officer.

Effect of Changes

The bill repeals s. 20.61, F.S., establishing the AST.

B. SECTION DIRECTORY:

Section 1. Authorizes a type two transfer of the records, property, positions, pending issues and existing contracts, administrative authority, administrative rules in chapter 74-3, Florida Administrative Code (FAC), in effect as of July 16, 2016, trust funds, and unexpended balances of appropriations, allocations, and other funds of the State Data Center within the Agency for State Technology (AST) to the Department of Management Services. Except for those rules in chapter 74-3, nullifies any other rules adopted by the AST.

Section 2. Authorizes a type two transfer of the records, property, pending issues and existing contracts, administrative authority, administrative rules in chapter 74-1 and 74-2, Florida Administrative Code (FAC), in effect as of August 1, 2016, unexpended balances of appropriations, allocations, and other funds of the AST to the OTDS. Except for those rules in chapter 74-1 and 74-2, nullifies any other rules adopted by the AST.

Section 3. Except for those rules in chapter 74-1, 74-2, and 74-3, nullifies any other rules adopted by the AST.

Section 4. Requires all binding contracts or interagency agreements entered into by the AST or an entity or agent of the AST and any other agency, entity, or person to continue as binding contracts or agreement with the OTDS.

Section 5. Amends s. 17.0315, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 6. Amends s. 20.055, F.S., by removing the AST from the definition of “state agency”.

Section 7. Amends s. 20.22, F.S., by adding the OTDS and the State Data Center to the divisions and programs within the Department of Management Services.

Section 8. Repeals s. 20.61, F.S., relating to the AST.

Section 9. Amends s. 97.0525, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 10. Amends s. 110.205, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 11. Amends s. 215.322, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 12. Amends s. 215.96, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 13. Amends s. 216.292, F.S., deleting an expired subsection relating to the AST.

Section 14. Amends s. 282.003, F.S., by modifying the short title of the act.

Section 15. Amends s. 282.0041, F.S., by deleting obsolete definitions, amending existing definitions, and creating definitions for “application programming interface”, “cloud computing”, “data”, “data catalog”, “dataset”, “machine-readable”, and “open data”.

Section 16. Amends s. 282.0051, F.S., by defining the powers, duties, and functions of the OTDS. Provides that the state CIO serve as the head of the OTDS and be appointed by the Governor and confirmed by the Senate.

Section 17. Amends s. 282.00515, F.S., by modifying the duties of the cabinet agencies and aligning terminology with changes made in s. 282.0051, F.S.

Section 18. Amends s. 282.201, F.S., by establishing the State Data Center within the Department of Management Services, modifying the State Data Center’s duties and responsibilities, removing the agency data center consolidation schedule, and aligning terminology with changes made in s. 282.0051, F.S.

Section 19. Creates s. 282.206, F.S., relating to information technology management by state agencies.

Section 20. Amends s. 282.318, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 21. Amends s. 287.057, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 22. Amends s. 287.0591, F.S., relating to state term contracts for IT commodities, consultant services, or staff augmentation contractual services, by removing the requirement for the DMS to consult with the AST in the solicitation of these state term contracts.

Section 23. Amends s. 445.011, F.S. by removing a requirement for CareerSource Florida, Inc. to coordinate systems development with the AST.

Section 24. Amends s. 445.045, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 25. Amends s. 668.50, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 26. Amends s. 943.0415, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 27. Creates the Florida Cybersecurity Task Force to review and assess the state's cybersecurity infrastructure, governance, and operations. Requires that the task force submit a report of its findings and recommendations by November 1, 2018. Task force is abolished January 1, 2019.

Section 28. Does not require Legislative Budget Commission approval for the transfers authorized in sections 1 and 2 of the act.

Section 29. For Fiscal Year 2017-2018, appropriates \$1,813,664 in recurring funds from the General Revenue Fund to the OTDS and authorizes seven full-time equivalent positions and associated salary rate of 665,684 for purposes of implementing the act.

Section 30. From the funds in Section 29, provides \$500,000 for the OTDS to contract for independent advisory services for the planning and feasibility of initiatives proposed by the OTDS. Provides \$238,000 for the OTDS to contract for technology research and advisory services.

Section 31. Provides \$100,000 in nonrecurring general revenue funds to the Florida Department of Law Enforcement for purposes of administrative support for the Florida Cybersecurity Task Force.

Section 32. Provides an effective date of July 1, 2017.

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 State Data Center and state agency customer entities to utilize commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses, which should reduce State Data Center costs in subsequent years.

D. FISCAL COMMENTS:

- The bill conforms to the proposed House of Representatives' FY 2017-18 General Appropriations Act, which reduces \$7.9 million in funding to eliminate the AST and transfer the State Data Center to DMS. The proposed GAA transfers \$61.8 million and 185 positions for the State Data Center from the AST to the DMS. The proposed GAA reductions include:
 - Elimination of the AST -- \$3.6 million from the General Revenue Fund.
 - Reduction of 20 vacant positions in the State Data Center -- \$1.1 million from the Working Capital Trust Fund.
 - Reduction of rent, network bandwidth costs, and one position due to facility consolidation -- \$2.2 million from the Working Capital Trust Fund.
 - Reduction in unfunded budget -- \$817K from the Working Capital Trust Fund.

- The bill appropriates \$1.9 million and seven full-time equivalent positions for Fiscal Year 2017-18. This total appropriation includes:
 - \$1,813,664 in recurring general revenue funds and seven full-time equivalent positions and associated salary rate of 665,684 to the OTDS for purposes of implementing its assigned duties, responsibilities, and functions.
 - \$100,000 in nonrecurring general revenue funds to the Florida Department of Law Enforcement for purposes of administrative support for the Florida Cybersecurity Task Force.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None
2. Other: None

B. RULE-MAKING AUTHORITY:

1. The bill authorizes the OTDS to adopt rules to implement its duties as defined in s. 282.0051, F.S.
2. The bill authorizes the DMS to adopt rules to implement its duties as defined in s. 282.201, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES