

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 Governmental Oversight and Accountability

BILL: CS/SB 448

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Brandes

SUBJECT: Agency for State Technology

DATE: January 24, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Caldwell	GO	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 448 revises certain powers, duties, and functions of the Agency for State Technology to provide for collaboration with the Department of Management Services.

The bill authorizes the Agency for State Technology’s State Data Center to extend a service-level agreement with an existing customer for up to six months. The State Data Center must file a report with the Executive Office of the Governor within specified timeframes of the signing of an extension or the scheduled expiration of the service-level agreement with the customer. The report must outline issues preventing execution of new agreement and a schedule for resolving such issues.

The bill authorizes the Agency for State Technology to plan, design, and conduct testing with information technology resources to implement services that are within the scope of the services provided by the state data center, if cost-effective.

The bill has no known fiscal impact on state funds.

The bill takes effect July 1, 2018.

II. Present Situation:

Enterprise Information Technology Services Management Act

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

The State Technology Office (STO) was established in the Department of Management Services (DMS) in 1997.² During the 2000 and 2001 legislative sessions,³ the Legislature significantly amended statutes allowing for the consolidation and centralization of information technology (IT) assets and resources for executive branch agencies. While other sections of statute were amended to accomplish this policy direction, the primary chapter amended was Part I of Chapter 282, F.S., to either take existing powers and duties assigned to the DMS and transfer these powers and duties to the STO, or prescribe additional powers and duties to the STO to accomplish the policy direction of consolidating and centralizing IT. One of STO's new duties included developing and implementing service level agreements⁴ with each agency that the STO provided IT services.

In 2007, the Legislature created the Agency for Enterprise Information Technology (AEIT) to oversee policies for the design, planning, project management, and implementation of enterprise IT services, to include IT security.⁵ The State Data Center was created by the Legislature in 2008.⁶

In 2014, the Legislature abolished the AEIT and transferred its duties to the then newly created Agency for State Technology.⁷

Agency for State Technology

The AST was created on July 1, 2014.⁸ The executive director of AST is appointed by the Governor and confirmed by the Senate. The duties and responsibilities of the AST include:⁹

- 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.

¹ Section 282.003, F.S.

² Chapter 97-286, L.O.F.

³ Chapter 2000-164, L.O.F.; Chapter 2001-261, L.O.F.

⁴ Section 282.0041(20), F.S., defines the term "service level agreement" to mean a written contract between the state data center and a customer entity which specifies the scope of services provided, service level, the duration of the agreement, the responsible parties, and service costs. A service-level agreement is not a rule pursuant to chapter 120.

⁵ Chapter 2007-105, L.O.F.

⁶ Chapter 2008-116, L.O.F.

⁷ Chapter 2014-221, L.O.F.

⁸ Chapter 2014-221, L.O.F.

⁹ Section 282.0051, F.S.

- 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 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 agency¹⁰ IT project that has a total project cost of \$25 million or more and impacts one or more other agencies.
- Consulting with state agencies 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.
- Reporting annually to the Governor, the President of the Senate and the Speaker of the House of Representatives regarding state IT standards or policies that conflict with federal regulations or requirements.
- 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. 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.
 - Evaluation criteria for the award of IT-related state term contracts.
 - The term of each IT-related state term contract.
 - The maximum number of vendors authorized on each state term contract.
- In collaboration with the DMS, evaluating vendor responses for state term contract solicitations and invitations to negotiate, answering vendor questions on state term contract solicitations, and ensuring that IT policy is included in all solicitations and contracts that are administratively executed by the DMS.

¹⁰ Section 20.03(1), F.S. The term “cabinet” means collectively the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in s. 4, Art. IV of the State Constitution.

State Data Center Service-Level Agreements

The State Data Center is established 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.¹¹ 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.

Below is a table listing the customers of the AST’s State Data Center. The customers include state agencies, a water management district, a county, local agencies, and non-profit organizations.

AST Agency Customers	
Agency for Health Care Administration	Department of State
Agency for Persons with Disabilities	Department of Veterans' Affairs
Department of Citrus	Executive Office of the Governor
Department of Business & Professional Regulation	Division of Emergency Management
Department of Corrections	Fish & Wildlife Conservation Commission
Department of Children & Families	Florida Commission on Human Relations
Department of Economic Opportunity	Department of Highway Safety & Motor Vehicles
Department of Environmental Protection	Justice Administrative Commission
Department of Juvenile Justice	Public Employees Relations Commission
Department of Military Affairs	Public Service Commission
Department of Management Services	Northwest Florida Water Management District
Department of Education	Santa Rosa County
Department of Elder Affairs	Miami-Dade Expressway Authority
Department of Health	Greater Orlando Aviation Authority
Department of Lottery	Children Home Society
Department of Revenue	Department of Transportation

From 2008 to 2014, s. 282.203, F.S., allowed an existing customer’s service-level agreement with the AST to continue under the terms of the previous fiscal year’s agreement, if a customer did not execute a new service-level agreement within 60 days of the agreement’s expiration.

Funding Methodology

The Department of Financial Services (DFS) has responsibility for the preparation of the annual Statewide Cost Allocation Plan (SWCAP) required under the provisions of the U.S. Management and Budget (OMB) Circular A-87.¹² The circular establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts,

¹¹ Section 282.201, F.S.

¹² Section 215.195(1), F.S. Also, see 2 CFR Part 225, Appendix C, Appendix D, and Appendix E.

and other agreements with state, local, and federally recognized Indian tribal governments. The SWCAP is the mechanism by which the state identifies, summarizes, and allocates statewide indirect costs. The SWCAP also includes financial and billing information for central services directly charged to agencies or programs. The DFS must ensure that the SWCAP represents the most favorable allocation of central services cost allowable to the state by the Federal government.¹³

Appendix C of OMB Circular A-87, defines “billed central services” as central services billed to benefited agencies and/or programs on an individual fee-for-service or similar basis. Typical expenditures of billed central services include computer services, transportation services, insurance, and fringe benefits.¹⁴

The services provided by the State Data Center to state agencies are an example of “billed central services.” The State Data Center must adhere to the SWCAP in accounting for agency resources utilized.

Pilot Projects

From 2008 to 2014, s. 282.203, F.S., allowed the primary data centers to plan, design, and establish pilot projects and conduct experiments with IT resources.

III. Effect of Proposed Changes:

Section 1 amends s. 282.0051(18)(b), F.S., to clarify that the AST will evaluate vendor responses only for state term contract solicitations and invitations to negotiate that are specifically related to IT. This amendment removes ambiguity of whether the AST had a duty to evaluate state-term contract solicitations and invitation to bids that were not IT-related.

Section 282.0051(18)(c), F.S., is amended to provide that the AST will answer vendor questions only on IT-related state term contract solicitations. This amendment removes the ambiguity of whether the AST had a duty to answer vendor questions on state-term contract solicitations that were not IT-related.

Section 282.0051(18)(d), F.S., is amended to provide that the AST shall ensure all IT-related solicitations by the DMS are procured and state contracts are managed in accordance with existing policy established under s. 282.0051(18)(a), F.S. This amendment clarifies the AST’s duty does not apply to non-IT solicitations and state term contracts.

Section 2 amends s. 282.201(2)(d), F.S., to provide a State Data Center service-level agreement may be extended for up to six months. If the State Data Center and an existing customer execute a service-level agreement extension or fail to execute a new service-level agreement, the State Data Center must submit a report to the Executive Office of the Governor within five days after the date of the executed extension, or 15 days before the scheduled expiration date of the service-level agreement. Such report must explain the specific issues preventing execution of a new service-level agreement and describe the plan and schedule for resolving those issues.

¹³ *Id.*

¹⁴ 2 CFR Part 225, Appendix C.

In addition, this section:

- Deletes the requirement within a service-level agreement to provide certain termination notice to the AST;
- Authorizes the AST to plan, design, and conduct testing with IT resources to implement services that are within the scope of services provided by the State Data Center, if cost effective; and
- Deletes obsolete provisions related to the schedule for consolidations of agency data centers.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the AST, SB 448 has no fiscal impact.¹⁵

VI. Technical Deficiencies:

None.

¹⁵ AST, *Senate Bill 448 Analysis* (Oct. 13, 2017) (copy on file with the Senate Governmental Oversight and Accountability Committee).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 282.0051 and 282.201 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on January 23, 2018:

The Committee Substitute:

- Deletes provisions of the original bill revising definitions of “breach” and “incident” contained in s. 282.0041, F.S.; and
- Deletes provisions of original bill reenacting s. 943.0415, F.S., relating to the Cybercrime Office within the Department of Law Enforcement.

- B. **Amendments:**

None.