

**STORAGE NAME:** h0789s1.it.doc  
**DATE:** March 22, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HOUSE INFORMATION TECHNOLOGY  
ANALYSIS**

**BILL #:** CS/HB 789  
**RELATING TO:** COPYRIGHT OF GOVERNMENT DATA PROCESSING SOFTWARE  
**SPONSOR(S):** COMMITTEE ON INFORMATION TECHNOLOGY AND REPRESENTATIVE MEALOR  
**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HOUSE INFORMATION TECHNOLOGY YEAS 10 NAYS 0
  - (2) FISCAL POLICY & RESOURCES
  - (3) READY INFRASTRUCTURE COUNCIL
  - (4)
  - (5)
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**I. SUMMARY:**

CS/HB 789 would create s. 119.084, F. S., to re-establish, revise and supplement the provisions of s. 119.083, F. S. If enacted, the bill would:

Authorize any agency, as defined in s. 119.011 (2), to acquire, hold and enforce a copyright of agency created data processing software, to establish a price for sale and a fee for the licensing of such software, and to sell or license such software to other public or private entities;

Require that agency use of such software not diminish the right of the public to inspect and copy a non-exempt public record;

Require an agency maintaining a public record in an electronic recordkeeping system to provide to any person requesting the record a copy of such record in the medium requested if the agency maintains the record in the requested medium in exchange for payment of a fee established by the agency pursuant to s. 119.07 (1) (a) or, if the agency does not maintain the record in the requested medium, to provide a copy of the record in such medium in exchange for payment of a fee established by the agency pursuant to s. 119.07 (1) (b);

Prohibit an agency from contracting for creation or maintenance of a public records database that impairs public inspection or copying of public records;

Make the provisions of the bill subject to the Open Government Sunset Review Act of 1995 in accord with s. 119.15;

Provide that such provisions shall be repealed on October 2, 2006, unless extended by legislative action taken before that date;

Vest the State Technology Office with exclusive authority to adopt rules providing policies and procedures implementing the authority the act confers on state agencies; and

Provide legislative findings supporting adoption of the act.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

On October 1, 2000, the effect of the provisions of former s. 119.083, F. S., expired pursuant to s. 2, ch. 90-237, Laws of Florida. Thus, the provisions of former s. 119.083 are no longer effective and have not yet been otherwise replaced by any other law enacted subsequent to the enactment of s. 2, ch. 90-237, Laws of Florida. CS/HB 789 would reestablish and supplement the provisions of former s. 119.083.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 789 would create s. 119.084 to:

Re-establish the provisions of s. 119.083 in their entirety;

Amend the former provisions of s. 119.083 to provide authority for agencies to "acquire" a copyright to agency created data processing software, to establish a sale price for a copyright of such software; and to vest exclusive authority in the State Technology Office to adopt rules providing policies and procedures implementing the authority the act confers on state agencies, and to provide for s. 119.084 to be repealed on October 2, 2006, if not continued in effect by subsequent legislation action taken before that date; and

Provide a statement of legislative findings supporting the re establishment of the provisions of s. 119.083.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 of CS/HB 789 would create s. 119.084, F. S., to re-establish the provisions of former s. 119.083, F. S., to revise the former provisions of s.119.083 to provide authority for agencies to "acquire" a copyright of agency created data processing software, to provide authority for agencies to establish a price for the sale of such copyright, and to subject s. 119.084 to repeal on October 2, 2001, unless continued in effect by subsequent legislative action taken before that date.

Section 2 of CS/HB 789 would state legislative findings supporting adoption of s. 119.084, F. S., to re establish the provisions of former s. 119.083, F S.

Section 3 of CS/HB 789 would vest the State Technology Office with exclusive authority to adopt rules providing policies and procedures implementing the authority the act would confer on state agencies; and

Section 4 of CS/HB 789 would provide an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Enactment of CS/HB 789 should result in continuing the receipt of revenues that were received under former s. 119.083, F. S., from agencies holding and enforcing the copyright of data processing software and from selling or licensing such copyright.

2. Expenditures:

Enactment of CS/HB 789 should not result in increasing the level of expenditures that were incurred under former s. 119.083, F. S., from agencies holding and enforcing a copyright of data processing software, or from selling or licensing such copyright.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Enactment of CS/HB 789 would continue to prevent the private sector from unconditionally obtaining and using without restraint any data processing software created by an agency to which the agency acquired and held a copyright without purchasing the agency's copyright to the software or entering into a licensing agreement with the agency authorizing use of the software.

D. FISCAL COMMENTS:

There is not yet available any estimate of economic impact of CSHB 789.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Because CS/HB 789 would re-establish the provisions of former s. 119.083, F. S., enactment of the bill would be exempt from the requirements of Article VII, Section 18, of the Florida Constitution.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

Because CS/HB 789 would re-establish the provisions of former s. 119.083, F.S., enactment of the bill would be exempt from the requirements of Article VII, Section 18, of the Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Because CS/HB 789 would re-establish the provisions of former s. 119.083, F. S., enactment of the bill would be exempt from the requirements of Article VII, Section 18, of the Florida Constitution.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

CS/HB 789 would authorize the State Technology Office to adopt rules implementing the authority the bill would delegate in respect of acquiring, holding and enforcing a copyright to state agency created data processing software, and to selling and licensing such a copyright.

C. OTHER COMMENTS:

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON HOUSE INFORMATION TECHNOLOGY:

Prepared by:

Staff Director:

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Charles N. Davidson