

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 876

SPONSOR: Governmental Oversight & Productivity Committee and Senator Garcia

SUBJECT: State Technology Resource Procurement

DATE: April 5, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute requires the Department of Management Services (DMS) to consult with the State Technology Office (STO) when setting information technology procurement policies and procedures or negotiating information technology contracts. The committee substitute authorizes the STO to enter into joint purchasing agreements for information technology. The STO is authorized to collect fees, which are based on a percentage of savings, for the use of an on-line procurement system. Fees that are collected are to be used to cover the projected costs of the system. The committee substitute also permits the STO, in consultation with the DMS, to create strategic information technology alliances for the acquisition and use of information technology. The STO, in consultation with the DMS, is authorized to adopt rules to implement the alliances.

The committee substitute amends the following sections of the Florida Statutes: 287.042, 287.057, and 287.0731.

**II. Present Situation:**

Section 20.02(1), F.S., provides:

The State Constitution contemplates the separation of powers within state government among the legislative, executive, and judicial branches of the government. The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional

propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

Section 20.02(3), F.S., notes that structural reorganization must be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and the coordination of existing programs in response to public needs.

Under 20.02(6), F.S., the management and coordination of state services must be improved and overlapping activities eliminated. Further, s. 20.02(4), F.S., responsibility within the executive branch of government for the implementation of programs and policies must be clearly fixed and ascertainable.

**The Department of Management Services and the Information Technology Program** - The Department of Management Services (DMS) is created in s. 20.22, F.S. The DMS is exempt from the standard organizational structure required of departments under s. 20.04(3), F.S. The DMS contains the following divisions and programs:

- (a) Facilities Program.
- (b) Information Technology Program.
- (c) Workforce Program.
- (d) 1. Support Program.  
2. Federal Property Assistance Program.
- (e) Administration Program.
- (f) Division of Administrative Hearings.
- (g) Division of Retirement.
- (h) Division of State Group Insurance.

**The State Technology Office** - The State Technology Office (STO) was initially created in the 1997 legislative session with the enactment of the Information Resources Management Act.<sup>1</sup> During the 2000 session, the provision that initially created and defined the STO was repealed and the STO was re-created and re-defined.<sup>2</sup> Additionally, the position of Chief Information Officer (CIO) was created to head the STO. The CIO is appointed by the Governor.

The STO was created to ensure the best management of information resources across the executive branch of state government by providing support and guidance to enhance the state's use and management of information technology resources; designing, procuring and deploying the state's information technology resources; and managing cost effective deployment of information technology resources by state agencies.

**Purchasing Categories** – Section 287.017, F.S., establishes purchasing categories:

Category One: \$ 15,000  
 Category Two: \$ 25,000  
 Category Three: \$ 50,000

<sup>1</sup> Section 9, ch. 97-286, L.O.F.

<sup>2</sup> CS/CS/SB 1334.

Category Four: \$ 150,000

Category Five: \$ 250,000

Under s. 287.042(5), F.S., the Department of Management Services (DMS) is authorized to prescribe procedures for procuring information technology consultant services which provide for public announcement and qualification, competitive selection, competitive negotiation contract award, and prohibition against contingent fees. The procedures must be limited to information technology consultant contracts for which the total project costs, or planning or study activities, are estimated to exceed the threshold amount provided for a Category Two purchase, i.e., \$25,000.

Under subsection (16)(a) of the section, the DMS is authorized to enter into joint agreements with governmental agencies for the purpose of pooling funds for the purchase of commodities, information technology or services that can be used by multiple agencies. The DMS is required to consult with the STO on joint agreements that involve the purchase of information technology. Agencies entering into joint purchasing agreements with the DMS must authorize the DMS to contract for such purchases on their behalf.

Under s. 287.057(22)(a), F.S., the STO is required to develop a program for on-line procurement of commodities and contractual services. Only prequalified bidders meeting mandatory requirements and qualifications criteria are permitted to participate in on-line procurement.

Under s. 287.0731, F.S., the DMS is required to establish a permanent team for contract negotiations, including a chief negotiator, to specialize in the procurement of information technology.

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

The committee substitute amends s. 287.042(5), F.S., to require the Department of Management Services (DMS) to prescribe, in consultation with the State Technology Office (STO), procedures for procuring information technology and information-technology consultant services for public announcement and qualification, competitive selection, competitive negotiation, contract award, and a prohibition against contingent fees. The procedures are limited to information technology consultant contracts for which the total project costs, or planning or study activities, are estimated to exceed the threshold amount for Category Two.

The committee substitute also amends s. 287.042(17), F.S., by adding a new subsection (b) that provides that for contracts pertaining to the provision of information technology, the STO, in consultation with the DMS, is required to assess the technological needs of a particular agency, evaluate contracts, and determine whether to enter into a written agreement with the letting federal, state, or political subdivision body to provide information technology for a particular agency.

The committee substitute also amends s. 287.057(22)(a), F.S. The STO, in consultation with the DMS, must develop a program for on-line procurement of commodities and contractual services. The amendment requires state agencies to participate in the on-line procurement program in order to promote open competition and to leverage its buying power.

Paragraph (b) of subsection (22) is amended to authorize, instead of require, the STO to adopt rules to implement the on-line procurement program. Further, the STO is authorized to adopt by rule criteria for exceptions to on-line procurement.

The committee substitute permits the collection of fees for the use of the on-line procurement program. The fees may be imposed on an individual-transaction basis or as a fixed percentage of the cost savings generated. Fees are required to be set, at a minimum, to cover the STO's projected costs of the services, including overhead. All fees that are collected must be deposited in the Technology Enterprise Operating Trust Fund for disbursement.

The committee substitute permits the creation of state strategic information technology alliances for the acquisition and use of information technology with prequalified contractors or partners. The alliance members must be industry leaders possessing demonstrated experience in the public and private sectors. The purpose of the alliances is to provide the state with efficient, cost-effective, and advanced information technology. These alliances must design, develop, and deploy projects that provide the information technology needed to collect, store and process the state's data and information, provide connectivity, and integrate and standardize computer networks and information systems of the state. The STO is authorized to adopt rules, in consultation with the DMS, to implement the state strategic information technology alliances.

The committee substitute takes effect July 1, 2001.

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

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

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill could result in more competition among vendors for state business.

**C. Government Sector Impact:**

Increased use of on-line procurement could result in substantial savings for the purchase of technology and technology services by the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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