

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	HB 5011	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Appropriations Committee and Grimsley	117 Y's	0 N's
<b>COMPANION BILLS:</b>	N/A	<b>GOVERNOR'S ACTION:</b>	Vetoed

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**SUMMARY ANALYSIS**

House Bill 5011 passed both chambers on March 9, 2011. The bill amends provisions relating to the Agency for Enterprise Information Technology (AEIT), establishes the Agency for State Technology (AST) and transfers management oversight of the state's primary data centers to the AST, and repeals several sections of law. The bill conforms to the Fiscal Year 2012-2013 General Appropriations Act.

The bill:

- Establishes the AST and authorizes a type two transfer of all records and property; unexpended balances of appropriations; administrative authority; the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1, and 71A-2, Florida Administrative Code; pending issues; and existing contracts of the AEIT to the AST.
- Creates the AST within the Executive Office of the Governor with the head of the agency being the Governor and Cabinet; and establishes an executive director of the AST who is the state's Chief Information Officer, appointed by the Governor and confirmed by the Cabinet and Senate.
- Defines the duties and responsibilities of the AST to include providing project management oversight of the agency data center consolidations authorized pursuant to s. 282.201, F.S., developing an Information Technology Strategic Plan for Florida, and providing management oversight of the Northwood and Southwood Shared Resource Centers.
- Repeals the following sections of law:
  - s. 14.204, F.S., relating to the establishment of the AEIT;
  - s. 282.0055, F.S., relating to the assignment of information technology;
  - s. 282.0056, F.S., relating to the development of work and implementation plans and policy recommendations;
  - s. 282.33, F.S., relating to energy efficiency standards for data centers; and
  - s. 282.34, F.S., relating to statewide e-mail service.
- Provides appropriation and full-time equivalent positions to the AST.

Fiscal Impact: The bill appropriates \$1,847,866 in recurring general revenue funds and 16 full-time equivalent positions and 1,415,386 of salary rate to the AST. The bill also conforms to the Fiscal Year 2012-2013 General Appropriations Act which does not provide an appropriation for the statewide e-mail service as currently contracted.

**The bill was vetoed by the Governor on April 20, 2012.**

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### **Agency for Enterprise Information Technology**

#### **Present Situation**

In 2007 the Legislature created the AEIT to oversee policies for the design, planning, project management, and implementation of enterprise information technology services, to include information technology security.<sup>1</sup> The AEIT is administratively housed within the Executive Office of the Governor, with the Governor and Cabinet as the head of the agency.

The AEIT is required to<sup>2</sup>:

- Submit an annual work plan for approval by the Governor and Cabinet.
- Monitor the implementation, delivery and management of the enterprise information technology services established in law.
- Make recommendations to the agency head and Legislature concerning other information technology services that should be designed, delivered, and managed as enterprise information technology services.
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services.
- Biennially publish a long-term strategic enterprise information technology plan.
- Perform duties related to enterprise information technology services including the state data center system, information technology security, and the statewide e-mail service.
- Coordinate with the Division of Purchasing in the Department of Management Services (DMS) on the planning and acquisition of information technology products and work with the division in the establishment of best practices for procuring such products.
- Develop information technology standards.
- Submit a comprehensive transition plan for the consolidation of agency data centers into a primary data center.
- Annually provide the Legislature with recommendations for consolidating the purchase of information technology commodities and contractual services.

In 2008 specific duties and responsibilities pertaining to information technology security were assigned to the AEIT;<sup>3</sup> but the Office of Information Security was still housed within the DMS. In 2009 the Office of Information Security was created within the AEIT,<sup>4</sup> and 8 full-time equivalents (FTE) were transferred from the DMS budget to the AEIT in the Fiscal Year 2009-2010 General Appropriations Act.

#### **Effect of Changes**

The bill repeals the section of law establishing the Agency for Enterprise Information Technology (AEIT) and creates a new section of statute that establishes the Agency for State Technology (AST). The bill authorizes a type two transfer of all records and property; funds, trust funds, and unexpended balances of appropriations, allocations, and other funds; administrative authority; the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1 and 71A-2, Florida Administrative Code; pending issues; and existing contracts of the AEIT to the AST.

The bill provides duties and responsibilities for the AST that include:

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<sup>1</sup> 2007-105, Laws of Florida.

<sup>2</sup> Section 14.204, Florida Statutes.

<sup>3</sup> 2008-116, Laws of Florida.

<sup>4</sup> 2009-80, Laws of Florida.

- Providing project management oversight of the agency data center consolidations authorized pursuant to s. 282.201, F.S.
- Developing and biennially submitting an Information Technology Strategic Plan for Florida that includes compiling an inventory of information technology systems operated and maintained by state agencies and identifying strategies and opportunities to improve the delivery of these systems, an inventory of major information technology project currently in progress within the executive branch agencies, and recommendations of other information technology services that should be delivered and managed as enterprise information technology services as defined in s. 282.0041, F.S.
- Developing information technology standards.
- Providing management oversight of the Northwood and Southwood Shared Resource Centers.

In comparison to the AEIT, the new agency's duties and responsibilities are not as broad; rather they are focused on the duties necessary to ensure that the state realizes the cost savings and efficiencies of the agency data center consolidations and identifying other opportunities for improving the delivery of information technology in the state.

The bill appropriates funding and full-time equivalent positions to the AST.

## **Administrative Rules**

### **Present Situation**

The AEIT is authorized to adopt rules to carry out its statutory duties<sup>5</sup> and to specifically adopt rules relating to:

- Information security<sup>6</sup>
- State data center system<sup>7</sup>

Since its establishment in 2007, the AEIT has promulgated the following administrative rules<sup>8</sup>:

- Chapter 71-1, Florida Administrative Code, *Confirmation and Delegation of Authority*, effective July 13, 2009.
- Chapter 71A-1, Florida Administrative Code, *Florida Information Technology Resource Security Policies and Standards*, effective November 15, 2010.
- Chapter 71A-2, Florida Administrative Code, *Florida Information Resource Security Policies and Standards*, effective August 10, 2004.

Additionally, the AEIT has initiated, but not completed, the promulgation of the following two administrative rules<sup>9</sup>:

- Chapter 71B-1, Florida Administrative Code, *Enterprise E-mail Service*.
- Chapter 71B-2, Florida Administrative Code, *Data Center System*.

### **Effect of Changes**

The bill transfers the administrative rules in effect as of November 15, 2010, comprised only of Chapters 71-1, 71A-1, and 71A-2, Florida Administrative Code, to the AST.

The bill clarifies that all notices published after November 15, 2010, by the AEIT pursuant to s. 120.54, F.S., are nullified and that all proceedings pursuant to s. 120.54, F.S., of the AEIT that are pending on the effective date of the bill or were initiated after November 15, 2010, are also nullified.

<sup>5</sup> Section 14.204(7), F.S.

<sup>6</sup> Section 282.318(6), F.S.

<sup>7</sup> Section 282.201(2)(e), F.S.

<sup>8</sup> *Florida Administrative Weekly & Florida Administrative Code*, Department of State, Division of Libraries and Information Services.

<sup>9</sup> *Id.*

The bill nullifies the activity relating to the proposed rule for the statewide e-mail service to conform to the repeal of s. 282.34, F.S., establishing the statewide e-mail service and the Fiscal Year 2012-2013 General Appropriations Act which provides no appropriation for this service as currently contracted.

The bill also nullifies the activity pertaining to the proposed data center system rule because the rule does not accomplish the statutory directive of identifying the hardware and software standards for the primary data centers and in several sections is simply a restatement of current law.

## **Governance Structure of the Northwood and Southwood Shared Resource Centers**

### **Present Situation**

In 2008 the Legislature statutorily created the Northwood and Southwood Shared Resource Centers and required each center to be headed by a board of trustees as defined in s. 20.03, F.S.<sup>10</sup> The board members are appointed by the agency head or chief executive officer of the representative customer entities of the centers and serve at the pleasure of the appointing customer entity. The executive director of AEIT is an advisor to the boards.

The boards of trustees are authorized to employ an executive director, pursuant to s. 20.05, F.S., of the centers with the executive directors serving at the pleasure of the boards. The executive directors are responsible for the daily operation of the centers and for ensuring that the centers comply with all laws and rules governing their operations. The boards are responsible for establishing an annual performance evaluation process for the executive directors that includes each director being reconfirmed by the board biennially.

The duties and additional responsibilities of the boards of trustees pertaining to the management oversight of the centers are established in statute.<sup>11</sup>

In 2009 the Legislature clarified the appointment process for board members to be based on when an agency is scheduled to consolidate its agency data center or computing facility into either the Northwood Shared Resource Center or Southwood Shared Resource Center.<sup>12</sup> The revised process is based on the projected usage rate of the customer entity for the upcoming fiscal year. Agencies with a projected usage rate of 4 percent or greater during the fiscal year shall have one trustee on the board with the total number of votes for each trustee apportioned based upon the agency's share of the total usage.

### **Effect of Changes**

The bill transfers the management responsibility of the Northwood and Southwood Shared Resource Centers to the AST. The AST is responsible for establishing the operating policies necessary for the centers to perform their duties pursuant to s. 282.203, F.S., and for monitoring the operation of the centers to ensure compliance with all laws and rules governing the centers.

The bill authorizes the executive director of the AST to appoint a director for the Northwood Shared Resource Center and a director for the Southwood Shared Resource Center. The directors are responsible for the daily operation of the center and for ensuring that staff members are accountable for the performance of each center. Section 282.203(2), F.S., authorizing the establishment of the board of trustees at each of the centers is deleted.

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<sup>10</sup> 2008-116, Laws of Florida.

<sup>11</sup> Sections 282.203(2) and (3), F.S.

<sup>12</sup> 2009-80, Laws of Florida.

And finally, the bill amends the duties and responsibilities of the primary data center directors to include:

- Providing to each agency head by September 1 of the fiscal year before the agency's scheduled consolidation the projected costs to provide data center services.
- Submitting a plan for consideration by the Legislative Budget Commission if a billing rate schedule is used after the start of the fiscal year that increases any agency's costs for that fiscal year.
- Submitting a plan for consideration by the Legislative Budget Commission if in any given fiscal year, the primary data center's projected revenues are below costs for that fiscal year.

## **Agency Data Center Consolidations**

### **Present Situation**

The Legislature established the state data center system and requires all agency data centers and computing facilities to be consolidated into a primary data center by 2019.<sup>13</sup> By December 1 of each year, beginning in 2009, the Legislature directed the AEIT to identify at least two agency data centers or computing facilities for consolidation into a primary data center.<sup>14</sup>

The Legislature initiated the first phase of data center consolidation in 2009 with proviso included in the Fiscal Year 2009-2010 General Appropriations Act. The AEIT submitted its *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019* report on December 23, 2010, which provided recommendations for the consolidation of all remaining agency data centers and computing facilities.

In 2011, the Legislature codified in statute the consolidation recommendations included in AEIT's December 23, 2010, report.

After the 2011 Regular Session of the Legislature, the Florida Department of Law Enforcement (FDLE) and the Department of Lottery (DOL) notified staff of the House Appropriations Committee that significant issues existed that would prohibit the consolidation of their agency data centers into a primary data center; and therefore, the agencies requested an exemption. The agencies provided documentation required to validate the issues of concern, which included working with the Federal Bureau of Investigations (FBI), in the case of FDLE, and the Multi-State Lottery Association, in the case of DOL. An example of one such issue of concern included FDLE's requirement to comply with the FBI policy that mandates FDLE to maintain management control over its entire data center infrastructure that transports and stores criminal justice data and information.

The Fiscal Years 2009-2010 and 2010-2011 General Appropriations Acts directed the submission of transition plans by both the agencies scheduled for consolidation and the primary data center identified to receive the consolidations. Proviso identified the components that were required to be included in these plans.

In 2011 the Legislature codified in statute<sup>15</sup> the requirement for the development and submission of not only the agency and primary data center transition plans but also included the requirement for the AEIT to submit a comprehensive transition by October 15 of the fiscal year before the scheduled consolidations to the Governor and the chairs of the legislative appropriations committees.

### **Effect of Changes**

The bill amends the agency data center consolidation schedule by:

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<sup>13</sup> 2008-116, Laws of Florida.

<sup>14</sup> *Id.*

<sup>15</sup> 2011-50, Laws of Florida.

- Delaying the consolidation date for the Department of Highway Safety and Motor Vehicles from March 31, 2012, to August 31, 2012.
- Changing the primary data center that the Department of Health's Test and Development Lab and all remaining data center resources located at the Capital Circle Office Complex must consolidate into by December 31, 2012.
- Deleting the Department of Lottery's Disaster Recovery Backup Data Center in Orlando from the consolidation schedule.
- Exempting the Department of Law Enforcement, the Department of Lottery's Gaming System, Systems Design and Development in the Office of Policy and Budget, and the State Board of Administration from data center consolidation.

Additionally the bill clarifies the transition planning process for purposes of implementing the agency data center consolidation schedule. Specifically, the bill:

- Requires agency transition plans to be submitted to the appropriate primary data center by July 1 of the fiscal year before the agency's scheduled consolidation and amends the required components of the plan.
- Requires primary data center transition plans to be submitted to the AST, the Executive Office of the Governor, and the chairs of the legislative appropriations committees by September 1 of the fiscal year before the scheduled consolidations.
- Eliminates the requirement for the AEIT (AST) to submit a comprehensive transition plan.

## **Repealed Sections of Law**

### **Present Situation**

Section 14.204, F.S., establishes the AEIT and defines the agency's duties and responsibilities.

Section 282.0055, F.S., relates to the assignment of information technology and assigns the responsibility for the design, planning, project management, and implementation of enterprise information technology services for executive branch agencies to the AEIT. The supervision, design, delivery, and management of agency information technology remain the responsibility and control of the individual state agencies.

Section 282.0056, F.S., requires the AEIT to develop an annual work plan within 60 days after the start of a fiscal year that describes the activities that the AEIT intends to undertake that fiscal year. The work plan must be presented at a public meeting and approved by the Governor and Cabinet and then submitted to the Speaker of the House of Representatives and the President of the Senate. The AEIT is allowed to amend the work plan as needed, subject to approval by the Governor and Cabinet.

At the August 16, 2011, meeting of the Governor and Cabinet, the AEIT requested approval of its Fiscal Year 2011-2012 Operational Work Plan as required by s. 282.0056, F.S.; however, such approval was not provided by the Governor and Cabinet at this meeting. The meeting agendas of the Governor and Cabinet subsequent to the August 16, 2011, meeting have not included a request for approval of this work plan.<sup>16</sup>

Additionally, this section of law requires the AEIT to annually submit to the Speaker of the House of Representatives and the President of the Senate, implementation plans for proposed enterprise information technology services to be established in law.

Section 282.33, F.S., requires the AEIT by July 1, 2009, to define objective standards for measuring data center energy consumption and efficiency and calculating total cost of ownership of energy-efficient information technology products. Additionally, it requires AEIT beginning December 31, 2010,

<sup>16</sup> Florida Governor and Cabinet website: <http://www.myflorida.com/myflorida/cabinet/>.

and every 3 years thereafter, to submit to the Legislature recommendations for reducing energy consumption and improving the energy efficiency of the primary data centers.

Section 282.34, F.S., establishes a statewide e-mail service that must be designed to meet the needs of all executive branch agencies. The law states that the primary goals of the statewide e-mail service are to:

- Minimize the state's investment needed to operate and support a statewide e-mail service.
- Reduce the cost of current agency e-mail operations and the number of duplicative e-mail systems.
- Eliminate the need for each state agency to maintain its own e-mail staff.

This section of law requires AEIT to submit a proposed plan for consideration by the Legislative Budget Commission (LBC) at a meeting scheduled before June 30, 2011, for the migration of all state agencies to the statewide e-mail service. Additionally, the AEIT is required to work with the Southwood Shared Resource Center to develop an implementation plan that identifies and describes the detailed processes and timelines for an agency's migration to the statewide e-mail service based on the migration date approved by the LBC.

### **Effect of Changes**

The bill repeals:

- s. 14.204, F.S., relating to the establishment of the AEIT.
- s. 282.0055, relating to the assignment of information technology, to align with changes made in s. 14.206, F.S., establishing the AST.
- s. 282.0056, relating to the submission of annual work plans and implementation plans for proposed enterprise information technology services, to align with changes made in s. 14.206, F.S., establishing the AST.
- s. 282.33, relating to energy efficiency standards for data centers, and incorporates in s. 140.206, F.S., the requirement to include proposed energy efficiency standards in the Strategic Information Technology Plan for Florida.
- s. 282.34, relating to the statewide e-mail service, to conform to the Fiscal Year 2012-2013 General Appropriations Act which does not provide an appropriation for a contract executed June 29, 2011, by and between Affiliated Computer Services, State & Local Solutions, Incorporated and the Southwood Shared Resource Center for enterprise e-mail services. Repeal of the s. 282.34, F.S., is effective upon the bill becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: None
2. Expenditures: See Fiscal Comments

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: The bill appropriates \$1,847,866 in recurring general revenue funds and 16 full-time equivalent positions and 1,415,386 of salary rate to the Agency for State Technology. The Fiscal Year 2012-2013 General Appropriations Act contains no appropriation for the Agency for State Technology and no appropriation for the Agency for Enterprise Information Technology which was appropriated \$1,666,826 and 16 full-time equivalent positions in the Fiscal Year 2011-2012 General Appropriations Act.

The Fiscal Year 2012-2013 General Appropriations Act does not provide an appropriation for a contract executed June 29, 2011, by and between Affiliated Computer Services, State & Local Solutions, Incorporated and the Southwood Shared Resource Center for the enterprise e-mail service.