

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1195 Technology
SPONSOR(S): Government Operations Subcommittee; Grant
TIED BILLS: **IDEN./SIM. BILLS:** SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N, As CS	Toliver	Williamson
2) Government Operations Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Agency for State Technology (AST) is administratively housed within the Department of Management Services. The executive director of AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate. Current law establishes positions within AST and establishes the agency's duties and responsibilities.

The bill requires AST to create, administer, and maintain a data catalog. State and local government entities must provide AST with an indexed list that identifies all data points aggregated or stored within any computer system, platform, application, or database used by the entity. The bill specifies the type of information required for inclusion in the list. AST must create a standardized reporting format for the data submitted by state and local government entities and publish that data in the data catalog.

The bill establishes the position of chief data officer (CDO) within AST. The CDO must request and receive data from any state or local government entity, as needed, to establish the interoperability of public data, for the purpose of maintaining and updating the data catalog.

Currently, The Florida Election Code only allows voter interface devices to be used to aid persons with disabilities in the voting process.

The bill appears to expand the use of voter interface devices to all individuals instead of persons with disabilities only. It revises the definition of "marksense ballot" and "marking device" to include voter interface devices.

The bill may have a negative fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Agency for State Technology

Background

In 2014, the Legislature created the Agency for State Technology (AST) within the Department of Management Services (DMS).¹ The executive director of AST, who serves as the state's chief information officer, is appointed by the governor and confirmed by the Senate.² The following positions are established within AST, all of whom are appointed by the executive director:

- Deputy executive director, who serves as the deputy chief information officer.³
- Chief planning officer and six strategic planning coordinators.⁴
- Chief operations officer.⁵
- Chief information security officer.⁶
- Chief technology officer.⁷

AST's duties and responsibilities include:

- 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 for use by state agencies when implementing IT projects.
- Performing project oversight on all state agency IT projects with a total project cost of \$10 million or more that are funded in the General Appropriations Act or any other law.
- Performing project oversight on any cabinet agency IT project with a total project cost of \$25 million or more and that impacts one or more agencies.
- Providing operational management and oversight of the state data center.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- Identifying opportunities for standardization and consolidation of IT services that support business functions and operations that are common across state agencies.
- Establishing, in collaboration with DMS, best practices for the procurement of IT products in order to reduce costs, increase productivity, or improve services.
- Participating with DMS in evaluating, conducting, and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Developing standards for IT reports and updates for use by state agencies.
- Assisting state agencies, upon request, in developing IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine their compliance with all IT standards and guidelines developed and published by AST.⁸

Currently, AST does not have statutory authority for the oversight of the interoperability⁹ of public data.¹⁰

¹ AST is administratively housed within DMS. It is a separate budget program and is not subject to control, supervision, or direction by DMS. Section 20.61, F.S.

² Section 20.61(1)(a), F.S.

³ Section 20.61(2)(a), F.S.

⁴ Section 20.61(2)(b), F.S., requires one coordinator to be assigned to each of the following major program areas: health and human services, education, government operations, criminal and civil justice, agriculture and natural resources, and transportation and economic development.

⁵ Section 20.61(2)(c), F.S.

⁶ Section 20.61(2)(d), F.S.

⁷ Section 20.61(2)(e), F.S.

⁸ Section 282.0051, F.S.

Effect of the Bill

The bill creates s. 282.319, F.S., requiring AST to create, administer, and maintain a data catalog. In addition, it requires a state or local government entity to annually provide AST with an indexed list that identifies all types of data points aggregated or stored within any computer system, platform, application, or database used by that entity. The list does not need to include the publication of all data points or data sets; however, it must include the identification of all data fields or columns within any computer system, platform, application, or database used by the entity. AST must create a standardized reporting format for the submitted data and publish it in an indexed catalog. The list must identify:

- If the data is maintained as structured or discrete data.
- Any standards or terminology used to structure the data.
- The name of the system, platform, or application that collects, stores, publishes, or analyzes the data.
- Any integration or interface between any system, platform, or application used by the entity and any other system, platform, or application.
- Any existing or planned application programming interface used to publish data, the data contained in any such existing interface, and the data expected to be contained in any such planned interface.
- Any current methodologies or formats for transmitting data to a state or local government entity.
- Any data that, if contained within a published application program interface would increase the efficiency and operation of state government, or increase the public's ability to obtain data in an efficient, accurate, and less costly manner.

It is unclear why local governments are required to provide such information to AST since AST has no oversight authority over local government entities.

The bill establishes the position of chief data officer (CDO) within AST, who is appointed by the executive director. The CDO must request and receive data from any state or local government entity, as needed to establish the interoperability of public data, for the purpose of maintaining and updating the data catalog. It is unclear why the CDO is required to request information from local government entities since AST has no oversight authority over local government entities.

⁹ The term “interoperability” is defined to mean the ability of a system to work with or use the parts or equipment of another system. Merriam-Webster, available at <http://merriam-webster.com/dictionary/interoperability> (last visited Jan. 23, 2016).

¹⁰ 2016 Agency Legislative Bill Analysis of HB 1195 by AST, January 20, 2016, at 2 (on file with the Government Operations Subcommittee).

Voting Systems

Background

The Florida Election Code¹¹ requires certain specifications for voting systems¹² and ballots.¹³ The term “ballot” is divided into two sub-categories:

- “Marksense ballots” means that printed sheet of papers, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.¹⁴
- “Electronic or electromechanical devices” means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device¹⁵ for tabulation by automatic tabulating equipment or data processing equipment.¹⁶

The Electronic Voting Systems Act (act)¹⁷ was established “to authorize the use of electronic and electromechanical voting systems in which votes are registered electronically or are tabulated on automatic tabulating equipment or data processing equipment.”¹⁸ The act requires all voting to be by marksense ballot utilizing a marking device for the purpose of designating ballot selections.¹⁹ However, persons with disabilities may vote on a voter interface device that meets the voting system accessibility requirements for individuals with disabilities pursuant to the federal Help America Vote Act of 2002 and s. 101.56062, F.S.²⁰ The term “voter interface device” means any device that communicates voting instructions and ballot information to a voter and allows the voter to select and vote for candidates and issues.²¹

The Department of State must publicly examine all makes of electronic or electromechanical voting systems submitted to it and determine whether the systems comply with s. 101.5606, F.S., which establishes requirements for approval of systems.²² Any person owning or interested in an electronic or electromechanical voting system may submit it to the department for examination.²³ Each certified voting system must include the capability to install accessible voter interface devices in the system configuration that will allow the system to meet certain minimum standards to aid persons with disabilities in the voting process.²⁴

By 2020, all persons with disabilities must vote on a voter interface device that meets the voter accessibility requirements for individuals with disabilities under the Help America Vote Act of 2002 and s. 101.56062, F.S.²⁵

¹¹ Chapters 97-106, F.S., are known as The Florida Election Code.

¹² The term “voting system” is defined to mean a method of casting and processing votes that functions wholly or partly by use of electromechanical or electronic apparatus or by use of marksense ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, supplies, printouts, and other software necessary for the system’s operation. Section 97.021(44), F.S.

¹³ Section 101.015(1), F.S., sets the standards for voting systems. The Department of State is required to adopt rules establishing the minimum standards for hardware and software for electronic and electromechanical voting systems. Section 101.015(1), F.S.; *see also* Fla. Admin. Rule 1S-5.001. Sections 101.151 and 101.161, F.S., set the specifications for ballots. The Department of State is required to adopt rules prescribing a uniform primary and general election ballot for each certified voting system in accordance with The Florida Election Code. Section 101.151(9), F.S.; *see also* Fla. Admin. Rule 1S-2.032.

¹⁴ Section 97.021(4)(a), F.S.

¹⁵ The term “marking device” is defined to mean any approved device for marking a ballot with ink or other substance that will enable the ballot to be tabulated by means of automatic tabulating equipment. Section 101.5603(5), F.S.

¹⁶ Section 97.021(4)(b), F.S.

¹⁷ Sections 101.5601-101.5614, F.S., are cited as the “Electronic Voting Systems Act.”

¹⁸ Section 101.5602, F.S.

¹⁹ Section 101.56075(1), F.S.

²⁰ Section 101.56075(2), F.S.

²¹ Section 97.021(40), F.S.

²² Section 101.5605(1), F.S.

²³ Section 101.5605(2)(a), F.S.

²⁴ *See* s. 101.56062, F.S.

²⁵ Section 101.56075(3), F.S.

Effect of the Bill

The bill appears to expand the use of voter interface devices to all individuals instead of persons with disabilities only.

The bill revises the definition of “marksense ballot” to include sheets of paper used indirectly to designate the elector’s ballot selections through the use of a voter interface device.

With respect to any voting system that uses a voter interface device, the bill provides that ss. 101.151, 101.161, 101.2512, 101.2515 101.252, 101.254, F.S., which relate to ballot layout, only apply to the display of candidates and issues on such device.

The bill amends the Electronic Voting Systems Act to include voter interface devices within the definition of “marking device.”

The provisions of the bill amending The Florida Election Code are effective January 1, 2017.

B. SECTION DIRECTORY:

Section 1 amends s. 20.61, F.S., relating to AST.

Section 2 amends s. 97.021, F.S., relating to definitions, effective January 1, 2017.

Section 3 amends s. 101.151, F.S., relating to specifications for ballots, effective January 1, 2017.

Section 4 amends s. 101.5603, F.S., relating to definitions relating to the Electronic Voting Systems Act, effective January 1, 2017.

Section 5 amends s. 101.56075, F.S., relating to voting methods, effective January 1, 2017.

Section 6 amends s. 282.0051, F.S., relating to AST; powers, duties, and functions.

Section 7 creates s. 282.319, F.S., relating to a data catalog.

Section 8 provides an effective date of July 1, 2016, except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on AST associated with the establishment of the position of chief data officer. In addition, there may be a negative fiscal impact on state agencies associated with the data reporting requirements in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be a negative fiscal impact on local governments associated with the data reporting requirements in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies offering voter interface devices may see an increase in requests for such devices due to the authorized expansion of its use.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to gather, standardize, and submit certain data to AST for inclusion in the data catalog; however, an exemption may apply if the cost to local governments is insignificant. An exception does not apply because the bill does not articulate a finding of an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Agency for State Technology only has statutory oversight of state agencies in the executive branch of government and therefore might be unable to enforce the provisions of the bill requiring local government entities to submit data.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment relocated provisions establishing a data catalog and the assigning duties to the chief data officer to chapter 282, F.S., which relates to enterprise information technology services. It also clarified that AST administers the data catalog. Finally, the amendment provided that the provisions of the bill amending The Florida Election Code are effective January 1, 2017.

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.