

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 Appropriations

BILL: SB 2518

INTRODUCER: Appropriations Committee

SUBJECT: Information Technology

DATE: February 10, 2022

REVISED: _____

ANALYST

Hunter/Betta

STAFF DIRECTOR

Sadberry

REFERENCE

ACTION

AP Submitted as Comm. Bill/Fav

I. Summary:

SB 2518 conforms statutes to the funding decisions in the Senate General Appropriations Act for Fiscal Year 2022-2023. Specifically, the bill:

- Transfers the Florida Digital Service (FDS), with all its existing powers, duties, functions, personnel, records, property, and funds, excluding the state data center, to the Executive Office of the Governor (EOG) as the newly created Enterprise Florida First Technology Center.
- Eliminates State Data Center services within the Department of Management Services (DMS).
- Transfers all DMS State Data Center duties, functions, and equipment to the Northwest Regional Data Center.
- Designates the Northwest Regional Data Center as the state data center for all state agencies and provides for additional duties for state agency customers. Existing exemptions to data center consolidation are maintained.
- Replaces all statutory references to Florida Digital Service with Enterprise Florida First Technology Center.

The bill takes effect on July 1, 2022.

II. Present Situation:

Florida Digital Service

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

¹ Section 282.003, F.S.

General duties

The Florida Digital Service (FDS) was created on July 1, 2020.² The duties and responsibilities of the FDS include:³

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards and terminology to support digital interoperability and the cloud-first policy to modernize the technology infrastructure.
- 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.
- Identifying opportunities for standardization and consolidation of IT services that support digital interoperability and cloud-first policy for common business functions and operations.
- Establishing best practices for procurement of IT products.
- 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.
- 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 FDS.
- Providing operational management and oversight of the state data center.
- Conducting market analysis no less than every three years to evaluate cost effectiveness and efficiency of the current information technology resources and present a strategic plan based on the market analysis for future technology planning.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- 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 agency IT project that has a total project cost of \$20 million or more and impacts one or more other agencies.
- Consulting with departments 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.
- Evaluating existing policies for adherence to federal requirements and providing alternative policies that do not conflict.
- Establishing a 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.⁴ 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.

² Chapter 2020-161, Laws of Fla.

³ Section 282.0051, F.S.

⁴ Chapter 2016-138, Laws of Fla.

- 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.
- Requirements to meet the National Institute of Standards and Technology (NIST) Cybersecurity Framework.
- Requirements to include independent verification and validation if required.
- Recommend methods to standardize data to promote interoperability.
- Recommend open data standards for use by the enterprise.
- Ensure IT solutions can utilize an electronic credential that complies with FDS standards.

Maintain a comprehensive data catalog that, at a minimum, identifies all data restricted from public disclosure.

State Chief Information Officer (State CIO)

The FDS is headed by the state chief information officer, established in s. 282.0051(2)(a), F.S., and is appointed by the Secretary of the Department of Management Services. Current law requires that the state CIO preferably have leadership-level experience in the design, development, and deployment of interoperable software and data solutions; with at least five years of experience in the development of information system strategic planning and development or information technology policy.

State Data Center

The State Data Center is housed within the DMS and provides data center services that comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements.⁵ 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.

State agencies, unless authorized by the Legislature or granted exemption by FDS, may not:⁶

- Create a new data center or computing facility.
- Expand an existing agency computing facility or data center.
- Terminate service with the State Data Center without 180 day written notification.

The State Data Center relies heavily on the use of state-owned equipment installed at the State Data Center facility located in the state's Capital Circle Office Center in Tallahassee for the provision of data center services, often financed through the Department of Financial Services' Consolidated Equipment Financing Program and through lease-purchase arrangements with hardware vendors. This equipment must be replaced periodically, usually around five years.

Service Level Agreement

Section 282.0041, F.S., provides definitions related to the Information Technology Management Act.⁷ Specifically, a service level agreement is defined as a written contract between the Department of Management Services and a customer entity which specifies the scope of services

⁵ Section 282.201, F.S.

⁶ Section 282.201(5), F.S.

⁷ Section 282.003, F.S.

provided, service level, the duration of the agreement, the responsible parties, and service costs. A service level is defined as the key performance indicators (KPI) of an organization or service which must be regularly performed, monitored, and achieved. Service level agreements are required to obtain data center services and are specific to each customer. These agreements are required to be in place no later than 60 days after services begin and must be renewed at a term not to exceed three years. If a customer fails to execute an agreement within 60 days after commencement of service, the State Data Center may cease service.

Northwest Regional Data Center

In 2011, the Florida State University Northwest Regional Data Center (NWRDC) was designated a state primary data center.⁸ This designation, with prescribed state agency customer requirements, permitted state agencies to enter into service level agreements with NWRDC to provide data center services similar to the DMS State Data Center. In 2022, the NWRDC has agreements to provide data center services to 13 state entities. The NWRDC customer base currently consists of 93 city, county, educational, private non-profit and state entities.

Type Two Transfer

Section 20.06(2), F.S., provides for type two transfers. A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof. A type two transfer preserves the merged entity's statutory powers, duties, rules, and functions, and the merged entity's records, personnel, property, and funds unless specifically severed or abolished. Pursuant to Rule 60L-33.003, F.A.C., if a transfer of an employee is legislatively mandated, the employee retains the status held in the position prior to the time of transfer unless the Legislature directs otherwise. This rule means the employee is transferred to the new entity and retains the employee's status in the originating agency, either probationary status, trainee status, or permanent status.

III. Effect of Proposed Changes:

Section 1 authorizes a type two transfer of the Florida Digital Service (FDS) in the Department of Management Services (DMS) to the Executive Office of the Governor pursuant to s. 20.06(2), F.S. This includes transferring all of the FDS's powers, duties, functions, records, offices, personnel, property, issues, contracts, authority, rules, funds, etc. Pursuant to s. 20.06(2)(c), F.S., all administrative rules of the FDS remain in effect after the type two transfer.

Section 2 provides that all contracts and interagency agreements involving the FDS and in existence as of July 1, 2022, are continued following the transfer.

Section 3 provides that all functions, records, personnel, contracts, agreements, and equipment currently in the DMS State Data Center are consolidated into the FSU Northwest Regional Data Center. All DMS State Data Center unexpended funds as of June 30, 2022, are also transferred to satisfy customer refunds for Fiscal Year 2021-2022.

⁸ Section 1004.649, F.S.

Section 4 creates s. 14.2017, F.S., the Enterprise Florida First Technology Center (EFFTC) within the EOG, directed by the state chief information officer. It sets minimum qualifications for the state chief information officer equivalent to the current qualifications found in s. 282.0051(2)(a), F.S. Additionally, it directs the state CIO to designate a state chief data officer with qualifications equivalent to the current qualifications found in s. 282.0051(2)(b), F.S. The section creates a new duty for the state CIO to facilitate meetings, at a minimum quarterly, with every the state agency chief information officer.

Section 5 amends s. 20.02, F.S., to eliminate the Florida Digital Service within the DMS.

Section 6 amends s. 282.0041 F.S., to make technical revisions necessary as a result of the provider change from the State Data Center to the Northwest Regional Data Center.

Section 7 amends s. 282.0051, F.S., to replace all references to Florida Digital Service within the DMS with Enterprise Florida First Technology Center within the EOG. The section eliminates the operational management and oversight responsibilities of the State Data Center within DMS including cost recovery and billing. Eliminates all reporting requirements to the EOG. Transfers the designation of the state chief information officer and the state chief data office from the Secretary of DMS to the Executive Office of the Governor. Revises the due date of the data catalog and data dictionary to December 1, 2022.

Section 8 repeals s. 282.201, F.S., to eliminate the State Data Center services within the DMS.

Section 9 amends s. 282.318, F.S., to replace all references to the Florida Digital Service within the DMS with the Enterprise Florida First Technology Center within the EOG.

Section 10 amends s. 282.319, F.S., to replace all references to the Florida Digital Service within the DMS with the Enterprise Florida First Technology Center within the EOG. The director of the Office of Policy and Budget is designated as the executive director of the Florida Cybersecurity Advisory Council.

Section 11 amends s. 282.0591, F.S., to replace all references to the Florida Digital Service within the DMS with the Enterprise Florida First Technology Center within the EOG.

Section 12 amends s. 1004.649, F.S., to designate the Northwest Regional Data Center (NWRDC) as the state data center and preferred cloud services provider for all state agencies. The bill authorizes the NWRDC to provide data center services from multiple locations.

State agencies, unless authorized by the Legislature or granted exemption by statute, may not:

- Create a new data center or computing facility.
- Expand an existing agency computing facility or data center.
- Terminate service with NWRDC without 180 day written notification.

Procure cloud-based computing services without evaluating services provided by NWRDC.

The bill requires state agencies to evaluate cloud-computing services provided by the NWRDC before procuring third-party cloud services and provides additional requirements to obtain data center services for state agencies customers including:

- Providing service level agreements with an original term not to exceed three years with option for two optional one-year extensions.
- Inclusion of a right-to-audit option in service level agreements.
- Providing access to applications, servers, network components, and other device necessary to perform business responsibilities documented in the service level agreements.
- Prioritizing procurement for cloud-computing solutions that reduce infrastructure and meet the needs of state agency customers.
- Assisting state agency customers with transitioning to cloud-computing solutions.
- Providing services that comply with applicable laws, regulations and policies.
- Maintaining data center facility(s) performance with appropriate data backup and recovery, disaster recovery, security, power, cooling, fire suppression, and capacity.

The bill maintains the list of entities exempt from data center consolidation currently in s. 282.201(2), F.S., and maintains the limitation on agencies to create data center services currently in s. 282.201(3), F.S.

In the event data center service is terminated, NWRDC has one year to transition state agency customers to an alternative cloud-based data center compliant with Enterprise Florida First Technology Center standards.

Sections 13 through 15 amend ss. 282.00515, 443.1113, and 943.0415 F.S., respectively to replace all references to the Florida Digital Service within the DMS with the Enterprise Florida First Technology Center within the EOG.

Section 16 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of the bill on state expenditures is indeterminate. SPB 2500 eliminates the State Data Center within the Department of Management Services consisting of 145 positions and \$52.7 million in trust funds and transfers all appropriations from agency budgets from the appropriation category to pay the DMS State Data Center to the appropriation category to pay the Northwest Regional Data Center.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.22, 282.0041, 282.0051, 282.318, 282.00515, 287.0591, 282.319, 443.113, 943.0415, and 1004.649.

This bill creates section 14.2017 of the Florida Statutes.

This bill repeals section 282.201 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.