

Committee Substitute for Senate Bill No. 1892

An act relating to the state data center system; amending s. 14.204, F.S.; revising the duties and responsibilities of the Agency for Enterprise Information Technology; authorizing the agency to adopt rules; amending s. 215.322, F.S.; requiring the Agency for Enterprise Information Technology to review an agency's request to accept credit, charge, or debit cards in payment of goods and services and make recommendations to the Chief Financial Officer; amending s. 216.235, F.S.; including the executive director of the Agency for Enterprise Information Technology on the State Innovation Committee; requiring the agency to evaluate innovative investment projects that involve information technology; amending s. 282.003, F.S.; revising a short title; amending s. 282.0041, F.S.; defining terms relating to information resource management; amending s. 282.0055, F.S.; conforming cross-references; amending s. 282.0056, F.S.; revising provisions relating to the Agency for Enterprise Information Technology's work plan; requiring an annual plan; requiring a public hearing on the plan; requiring the agency to annually report its achievements to the Governor and Cabinet and the Legislature; creating s. 282.201, F.S.; establishing a state data center system; providing legislative intent; providing the duties of the Agency for Enterprise Information Technology with respect to the system; providing responsibilities; providing state agency duties and limitations; authorizing the Agency for Enterprise Information Technology to adopt rules; creating s. 282.203, F.S.; establishing primary data centers; providing the duties of the center; providing that each center shall be headed by a board of trustees; providing for the membership of the board; providing for the duties of the board; creating s. 282.204, F.S.; providing for a workgroup to transition the Department of Children and Family Services into a primary data center; establishing the Northwood Shared Resource Center as a separate budget entity housed in the department for administrative purposes only by a certain date; providing for the center to be headed by a board of trustees; creating s. 282.205, F.S.; establishing the Southwood Shared Resource Center as a separate budget entity housed for administrative purposes only in the Department of Management Services; requiring the department and the center to identify information technology resources not related to the operation of the center; providing for the center to be headed by a board of trustees; amending s. 282.315, F.S.; revising the duties of the Agency Chief Information Officers Council with respect to the consolidation of computer services; amending s. 287.057, F.S.; requiring the Department of Management Services to consult with the Agency for Enterprise Information Technology with respect to procuring information technology commodities and contractual services; amending ss. 445.011, 445.045, and 668.50, F.S., relating to workforce information systems and the Uniform Electronic Transaction Act; clarifying the duties of the Agency for Enterprise Information Technology and the Department of Management Services; providing

for the transfer of state agency data center resources to a primary data center; requiring the board of trustees of the primary data center to submit a plan relating to costs and resources; requiring user agencies to submit budget requests to accomplish the transfers; specifying the duties of the board of trustees of the data center; providing for the transfer of mainframe resources of the Department of Transportation and the Department of Highway Safety and Motor Vehicles to the Southwood Shared Resource Center; providing a timeframe for the transfer; requiring a service-level agreement for the transition and a plan; providing for the supervision of staff and ownership of resources; requiring budget amendments to redistribute resources between the state entities; repealing s. 282.20, F.S., relating to the Technology Resource Center; repealing s. 282.322(2), F.S., relating to a report concerning the special monitoring process for designated information resources management projects; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 14.204, Florida Statutes, is amended to read:

14.204 Agency for Enterprise Information Technology.—The Agency for Enterprise Information Technology is created within the Executive Office of the Governor.

~~(1) The head of the agency shall be the Governor and Cabinet, which shall take action by majority vote consisting of at least three affirmative votes with the Governor on the prevailing side.~~

~~(2) The agency shall be a separate budget entity that is not subject to control, supervision, or direction by the Executive Office of the Governor in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.~~

~~(3)(4) The agency shall have an executive director who must: of the agency shall~~

(a) Have a degree from an accredited postsecondary institution;

(b) Have at least 7 years of executive-level experience in managing information technology organizations;

(c) Be appointed by the Governor and confirmed by the Cabinet, is subject to confirmation by the Senate, and shall serve at the pleasure of the Governor and Cabinet; and, The executive director shall

(d) Be the chief information officer of the state and the executive sponsor for all enterprise information technology projects. The executive director must have a degree from an accredited postsecondary institution, and at least 7 years of executive-level experience in managing information technology organizations.

~~(4)(2)~~ The agency shall have the following duties and responsibilities:

(a) Develop ~~and implement~~ strategies for the design, delivery, and management of the enterprise information technology services established in law.

(b) Monitor the delivery and management of the enterprise information technology services as established in law.

(c) Make recommendations to the agency head and the Legislature concerning other information technology services that should be designed, delivered, and managed ~~as at the enterprise~~ information technology services level as defined in s. ~~282.0041~~ 282.0041(8).

(d) Plan and establish policies for managing proposed statutorily authorized enterprise information technology services, which includes:

1. Developing business cases that, when applicable, include the components identified in s. 287.0574;

2. Establishing and coordinating project-management teams;

3. Establishing formal risk-assessment and mitigation processes; and

4. Providing for independent monitoring of projects for recommended corrective actions.

(e) ~~Not earlier than July 1, 2008,~~ Define the architecture standards for enterprise information technology services and develop implementation approaches for statewide migration to those standards.

(f) Develop and publish a strategic enterprise information technology plan that identifies and recommends strategies for how enterprise information technology services will deliver effective and efficient government services to state residents and improve the operations of state agencies.

(g) Perform duties related to the state data center system as provided in s. 282.201.

(h) Coordinate procurement negotiations for hardware and software acquisition necessary to consolidate data center or computer facilities infrastructure.

(i) In consultation with the Division of Purchasing in the Department of Management Services, coordinate procurement negotiations for software that will be used by multiple agencies.

(j) In coordination with, and through the services of, the Division of Purchasing in the Department of Management Services, develop best practices for technology procurements.

~~(5)(3)~~ The agency shall operate in ~~such~~ a manner that ensures the ~~as to ensure~~ participation and representation of state agencies and the Agency Chief Information Officers Council established in s. 282.315.

(6) The agency may adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out its statutory duties.

Section 2. Subsection (2) of section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch.—

(2) A state agency as defined in s. 216.011, or the judicial branch, may accept credit cards, charge cards, or debit cards in payment for goods and services with the prior approval of the Chief Financial Officer. ~~If When~~ the Internet or other related electronic methods are to be used as the collection medium, the Agency for Enterprise Information Technology State Technology Office shall review and recommend to the Chief Financial Officer whether to approve the request with regard to the process or procedure to be used.

Section 3. Paragraph (c) of subsection (4) and subsection (6) of section 216.235, Florida Statutes, are amended to read:

216.235 Innovation Investment Program.—

(4) There is hereby created the State Innovation Committee, which shall have final approval authority as to which innovative investment projects submitted under this section shall be funded. Such committee shall be comprised of seven members. Appointed members shall serve terms of 1 year and may be reappointed. The committee shall include:

(c) The executive director of Chief Information Officer in the Agency for Enterprise Information Technology State Technology Office.

(6) Any agency developing an innovative investment project proposal that involves information technology resources may consult with and seek technical assistance from the Agency for Enterprise Information Technology State Technology Office. The office shall consult with the Agency for Enterprise Information Technology concerning State Technology Office for any project proposal that involves enterprise information resourcee technology resources. The Agency for Enterprise Information Technology shall evaluate the project and advise State Technology Office is responsible for evaluating these projects and for advising the committee and review board of the technical feasibility and any transferable benefits of the proposed technology. In addition to the requirements of subsection (5), the agencies shall provide to the Agency for Enterprise Information Technology State Technology Office any information requested by the Agency for Enterprise Information Technology State Technology Office to aid in determining whether that the proposed technology is appropriate for the project's success.

Section 4. Section 282.003, Florida Statutes, is amended to read:

282.003 Short title.—This part may be cited as the “Information Technol-
ogy Resources Management Act of 1997.”

Section 5. Section 282.0041, Florida Statutes, is amended to read:

282.0041 Definitions.—For the purposes of this part, the term:

(1) “Agency” means those entities described in s. 216.011(1)(qq).

(2) “Agency Chief Information Officer” means the person appointed by the agency head to coordinate and manage the information technology functions and responsibilities applicable to that agency and to participate and represent ~~the his or her~~ agency in developing strategies for implementing enterprise information technology services identified in law and developing recommendations for enterprise information technology policy.

(3) “Agency Chief Information Officers Council” means the council created in s. 282.315.

(4) “Agency for Enterprise Information Technology” means the agency created in s. 14.204.

(5) “Agency information technology service” means a service that directly helps ~~an~~ the agency fulfill its statutory or constitutional responsibilities and policy objectives and is usually associated with the agency’s primary or core business functions.

(6) “Annual budget meeting” means a meeting of the board of trustees of a primary data center to review data center usage to determine the apportionment of board members for the following fiscal year, review rates for each service provided, and determine any other required changes.

(7) “Business continuity plan” means a plan for disaster recovery which provides for the continued functioning of a primary data center during and after a disaster.

(8) “Computing facility” means agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, but excluding single-server installations that exclusively perform a utility function such as file and print servers.

(9) “Customer entity” means an entity that obtains services from a primary data center.

(10) “Data center” means agency space containing 10 or more servers any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023.

(6) ~~“Customer relationship management” or “CRM” means the business processes, software, and Internet capabilities that can help state agencies manage customer relationships of the organization at the enterprise level.~~

(11)(7) “Enterprise level” means all executive branch agencies created or authorized in statute to perform legislatively delegated functions.

(12)(8) “Enterprise information technology service” means an information technology service that is used in all agencies or a subset of agencies

and is established in law to be designed, delivered, and managed at the enterprise level.

~~(13)~~⁽⁹⁾ “E-mail, messaging, and calendaring service” means the enterprise information technology service that enables users to send, receive, file, store, manage, and retrieve electronic messages, attachments, appointments, and addresses.

(14) “Information-system utility” means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

~~(15)~~⁽¹⁰⁾ “Information technology” means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

~~(16)~~⁽¹¹⁾ “Information technology policy” means statements that describe clear choices for how information technology will deliver effective and efficient government services to residents and improve state agency operations. ~~Such~~ A policy may relate to investments, business applications, architecture, or infrastructure. A policy describes its rationale, implications of compliance or noncompliance, the timeline for implementation, metrics for determining compliance, and the accountable structure responsible for its implementation.

(17) “Performance metrics” means the measures of an organization’s activities and performance.

(18) “Primary data center” means a state or nonstate agency data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities. A primary data center may be authorized in law or designated by the Agency for Enterprise Information Technology pursuant to s. 282.201.

~~(19)~~⁽¹²⁾ “Project” means an endeavor that has a defined start and end point; is undertaken to create or modify a unique product, service, or result; and has specific objectives that, when attained, signify completion.

(20) “Service level” means the key performance indicators (KPI) of an organization or service which must be regularly performed, monitored, and achieved.

(21) “Service-level agreement” means a written contract between a data center and a customer entity which specifies the scope of services provided, service level, the duration of the agreement, the responsible parties, and service costs. A service-level agreement is not a rule pursuant to chapter 120.

~~(22)~~⁽¹³⁾ “Standards” means the use of current, open, nonproprietary, or non-vendor-specific technologies.

(23)(14) “Total cost” means all costs associated with information technology projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources; ~~however, except that the total cost of loans or gifts of information technology to state universities to be used in instruction or research does not include fair market value.~~

(24) “Usage” means the billing amount charged by the primary data center, less any pass-through charges, to the customer entity.

(25) “Usage rate” means a customer entity’s usage or billing amount as a percentage of total usage.

Section 6. Section 282.0055, Florida Statutes, is amended to read:

282.0055 Assignment of information technology.—In order to ensure the most effective and efficient use of the state’s information technology and information technology resources and notwithstanding other provisions of law to the contrary, policies for the design, planning, project management, and implementation of ~~the enterprise information technology services defined in s. 282.0041(8)~~ shall be the responsibility of the Agency for Enterprise Information Technology for executive branch agencies created or authorized in statute to perform legislatively delegated functions. The supervision, design, delivery, and management of agency information technology ~~defined in s. 282.0041(5)~~ shall remain within the responsibility and control of the individual state agency.

Section 7. Section 282.0056, Florida Statutes, are amended to read:

282.0056 Development of work plan; development of implementation plans; and policy recommendations.—

(1) ~~For the purposes of carrying out its responsibilities under set forth in s. 282.0055, the Agency for Enterprise Information Technology shall develop an annual a work plan within 60 days after the beginning of the fiscal year describing the activities that the agency intends to undertake for that year, including and the proposed outcomes and completion timeframes. The work plan must be presented at a public hearing that includes the Agency Chief Information Officers Council, which may review and comment on the plan. The work plan must thereafter be approved by the Governor and Cabinet and submitted to the President of the Senate and the Speaker of the House of Representatives. The work plan may be amended as needed, subject to approval by the Governor and Cabinet to ensure that the enterprise information technology services will be provided in an efficient, effective, and accountable manner. For the 2007-2008 fiscal year, the agency’s work plan shall include the development of recommended enterprise information technology policies, as defined in s. 282.0041(11).~~

(2) By December 31, 2009, For the fiscal year beginning in 2008-2009, the agency shall develop, and submit to the President of the Senate and the Speaker of the House of Representatives, implementation plans for at least

one up to three of the following proposed enterprise information technology services to be established in law:

~~(a) Consolidation of the deployment, management, and operation of state-owned or state-operated computer rooms and data centers.~~

~~(a)(b)~~ A shared or consolidated enterprise information technology service delivery and support model for the e-mail, messaging, and calendaring service defined in s. 282.0041(9).

~~(b)(e)~~ Information security.

~~(d) A shared customer relationship management system that consolidates agency requirements for receiving, managing, responding to, tracking, and reporting on telephone, e-mail, personnel, and other communications received from citizens.~~

~~(c)(e)~~ Consideration of a planned replacement cycle for computer equipment.

(3) In developing policy recommendations and implementation plans for established and proposed enterprise information technology services, the agency shall describe the scope of operation, conduct costs and requirements analyses, conduct an inventory of all existing information technology resources that are associated with each service, and develop strategies and timeframes for statewide migration. For purposes of consolidating state-owned or state-operated computer rooms and data centers, the agency ~~for Enterprise Information Technology~~ shall develop a migration plan for prior to initiating any consolidation effort.

(4) For the purpose of completing its work activities, each state agency shall provide to the agency ~~for Enterprise Information Technology~~ all requested information, including, but not limited to, the state agency's costs, service requirements, and equipment inventories.

(5) Within 60 days after the end of each fiscal year, the agency shall report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives on what was achieved or not achieved in the prior year's work plan.

Section 8. Section 282.201, Florida Statutes, is created to read:

282.201 State data center system; agency duties and limitations.—A state data center system that includes all primary data centers, other non-primary data centers, and computing facilities, and that provides an enterprise information technology service as defined in s. 282.0041, is established.

(1) INTENT.—The legislature finds that the most efficient and effective means of providing quality utility data processing services to state agencies requires that computing resources be concentrated in quality facilities that provide the proper security, infrastructure, and staff resources to ensure that the state's data is maintained reliably, safely, and is recoverable in the

event of a disaster. Efficiencies resulting from such consolidation include the increased ability to leverage technological expertise, hardware and software capabilities; increased savings through consolidated purchasing decisions; and the enhanced ability to deploy technology improvements and implement new policies consistently throughout the consolidated organization. Therefore it is the intent of the Legislature that agency data centers and computing facilities be consolidated into primary data centers to the maximum extent possible by 2019.

(2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—The Agency for Enterprise Information Technology shall:

(a) Collect and maintain information necessary for developing policies relating to the data center system, including, but not limited to, an inventory of facilities.

(b) Annually approve cost-recovery mechanisms and rate structures for primary data centers which recover costs through charges to customer entities.

(c) By December 31 of each year beginning in 2009, submit to the Legislature recommendations to improve the efficiency and effectiveness of computing services provided by state data center system facilities. Such recommendations may include, but need not be limited to:

1. Policies for improving the cost-effectiveness and efficiency of the state data center system.

2. Infrastructure improvements supporting the consolidation of facilities or preempting the need to create additional data center facilities or computing facilities.

3. Standards for an objective, credible energy performance rating system that data center boards of trustees can use to measure state data center energy consumption and efficiency on a biannual basis.

4. Uniform disaster recovery standards.

5. Standards for providing transparent financial data to user agencies.

6. Consolidation of contract practices or coordination of software, hardware, or other technology-related procurements.

7. Improvements to data center governance structures.

(d) By December 31 of each year beginning in 2009, identify at least two nonprimary data centers or computing facilities for consolidation into a primary data center or nonprimary data center facility. The consolidation proposal must provide a transition plan, including estimated transition costs, timeframes for the transition, proposed budgetary savings, and substantive legislative changes necessary to implement the transition.

1. Recommendations shall be based on the goal of maximizing current and future cost savings. The agency shall consider the following criteria in

selecting consolidations that maximize efficiencies by providing the ability to:

- a. Consolidate purchase decisions;
- b. Leverage expertise and other resources to gain economies of scale;
- c. Implement state information technology policies more effectively;
- d. Maintain or improve the level of service provision to customer entities;
and
- e. Make progress towards the state's goal of consolidating data centers and computing facilities into primary data centers.

2. The agency shall establish workgroups as necessary to ensure participation by affected agencies in the development of recommendations related to consolidations.

3. By December 31, 2010, the agency shall develop and submit to the Legislature an overall consolidation plan for state data centers and computing facilities. The plan shall indicate a timeframe for the consolidation of all remaining facilities into primary data centers, including existing and proposed data centers, by 2019.

4. This paragraph expires July 1, 2017.

(e) Develop and establish policies by rule relating to the operation of the state data center system which must comply with applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R. The policies may address:

1. Ensuring that financial information is captured and reported consistently and accurately.

2. Requiring the establishment of service-level agreements executed between a data center and its customer entities for services provided.

3. Requiring annual full cost recovery on an equitable rational basis. The cost-recovery methodology must ensure that no service is subsidizing another service and may include adjusting the subsequent year's rates as a means to recover deficits or refund surpluses from a prior year.

4. Requiring that any special assessment imposed to fund expansion is based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.

5. Requiring that rebates be given when revenues have exceeded costs, that rebates be applied to offset charges to those customer entities that have subsidized the costs of other customer entities, and that such rebates may be in the form of credits against future billings.

6. Requiring that all service-level agreements have a contract term of up to 3 years, but may include an option to renew for up to 3 additional years contingent on approval by the board, and require at least a 180-day notice of termination.

7. Designating any nonstate data centers as primary data centers if the center:

a. Has an established governance structure that represents customer entities proportionally.

b. Maintains an appropriate cost-allocation methodology that accurately bills a customer entity based on the actual direct and indirect costs to the customer entity and prohibits the subsidization of one customer entity's costs by another entity.

c. Has sufficient raised floor space, cooling, redundant power capacity, including uninterruptible power supply and backup power generation, to accommodate the computer processing platforms and support necessary to host the computing requirements of additional customer entities.

(3) STATE AGENCY DUTIES.—

(a) For the purpose of completing its work activities as described in subsection (1), each state agency shall provide to the Agency for Enterprise Information Technology all requested information and any other information relevant to the agency's ability to effectively transition its computer services into a primary data center. The agency shall also participate as required in workgroups relating to specific consolidation planning and implementation tasks as assigned by the Agency for Enterprise Information Technology and determined necessary to accomplish consolidation goals.

(b) Each state agency shall submit to the Agency for Enterprise Information Technology information relating to its data centers and computing facilities as required in instructions issued by July 1 of each year by the Agency for Enterprise Information Technology. The information required may include:

1. The amount of floor space used and available.

2. The numbers and capacities of mainframes and servers.

3. Storage and network capacity.

4. Amount of power used and the available capacity.

5. Estimated expenditures by service area, including hardware and software, numbers of full-time equivalent positions, personnel turnover, and position reclassifications.

6. A list of contracts in effect for the fiscal year, including, but not limited to, contracts for hardware, software and maintenance, including the expiration date, the contract parties, and the cost of the contract.

7. Service-level agreements by customer entity.

(c) The Chief Information Officer of each state agency shall assist the Agency for Enterprise Information Technology as required by the agency.

(4) AGENCY LIMITATIONS.—

(a) Unless authorized by the Legislature or as provided in paragraph (b), a state agency may not:

1. Create a new computing facility or data center, or expand the capability to support additional computer equipment in an existing computing facility or nonprimary data center;

2. Transfer existing computer services to a nonprimary data center or computing facility;

3. Terminate services with a primary data center or transfer services between primary data centers without giving written notice of intent to terminate or transfer services 180 days before such termination or transfer; or

4. Initiate a new computer service if it does not currently have an internal data center except with a primary data center.

(b) Exceptions to the limitations in paragraph (a) may be granted by the agency head of the Agency for Enterprise Information Technology if there is insufficient capacity in a primary data center to absorb the workload associated with agency computing services.

(5) RULES.—The Agency for Enterprise Information Technology is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this part relating to the state data center system including the primary data centers.

Section 9. Section 282.203, Florida Statutes, is created to read:

282.203 Primary data centers.—

(1) DATA CENTER DUTIES.—Each primary data center shall:

(a) Serve customer entities as an information-system utility.

(b) Cooperate with customer entities to offer, develop, and support the services and applications as defined and provided by the center's board of trustees and customer entities.

(c) Comply with rules adopted by the Agency for Enterprise Information Technology, pursuant to this section, and coordinate with the agency in the consolidation of data centers.

(d) Provide transparent financial statements to customer entities and the Agency for Enterprise Information Technology.

(e) Maintain the performance of the facility, which includes ensuring proper data backup, data backup recovery, an effective disaster recovery plan, and appropriate security, power, cooling and fire suppression, and capacity.

(f) Develop a business continuity plan and conduct a live exercise of the plan at least annually. The plan must be approved by the board and the Agency for Enterprise Information Technology.

(g) Enter into a service-level agreement with each customer entity to provide services as defined and approved by the board in compliance with rules of the Agency for Enterprise Information Technology. A service-level agreement may not have a term exceeding 3 years but may include an option to renew for up to 3 years contingent on approval by the board.

1. A service-level agreement, at a minimum, must:

a. Identify the parties and their roles, duties, and responsibilities under the agreement;

b. Identify the legal authority under which the service-level agreement was negotiated and entered into by the parties;

c. State the duration of the contractual term and specify the conditions for contract renewal;

d. Prohibit the transfer of computing services between primary data center facilities without at least 180 days' notice of service cancellation;

e. Identify the scope of work;

f. Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit;

g. Establish the services to be provided, the business standards that must be met for each service, the cost of each service, and the process by which the business standards for each service are to be objectively measured and reported;

h. Identify applicable funds and funding streams for the services or products under contract;

i. Provide a timely billing methodology for recovering the cost of services provided to the customer entity;

j. Provide a procedure for modifying the service-level agreement to address changes in projected costs of service;

k. Provide that a service-level agreement may be terminated by either party for cause only after giving the other party and the Agency for Enterprise Information Technology notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period; and

l. Provide for mediation of disputes by the Division of Administrative Hearings pursuant to s. 120.573.

2. A service-level agreement may include:

a. A dispute resolution mechanism, including alternatives to administrative or judicial proceedings;

b. The setting of a surety or performance bond for service-level agreements entered into with nonstate agency primary data centers, which may be designated by the Agency for Enterprise Information Technology; or

c. Additional terms and conditions as determined advisable by the parties if such additional terms and conditions do not conflict with the requirements of this section or rules adopted by the Agency for Enterprise Information Technology.

3. The failure to execute a service-level agreement within 60 days after service commencement shall, in the case of an existing customer entity, result in a continuation of the terms of the service-level agreement from the prior fiscal year, including any amendments that were formally proposed to the customer entity by the primary data center within the 3 months before service commencement, and a revised cost-of-service estimate. If a new customer entity fails to execute an agreement within 60 days after service commencement, the data center may cease services.

(h) Plan, design, establish pilot projects for, and conduct experiments with information technology resources, and implement enhancements in services if such implementation is cost-effective and approved by the board.

(i) Enter into a memorandum of understanding with the agency where the data center is administratively located which establishes the services to be provided by that agency to the data center and the cost of such services.

(2) BOARD OF TRUSTEES.—Each primary data center shall be headed by a board of trustees as defined in s. 20.03.

(a) The members of the board shall be appointed by the agency head or chief executive officer of the representative customer entities of the primary data center and shall serve at the pleasure of the appointing customer entity. The initial appointments of members shall be made as soon as practicable, but not later than July 1, 2008.

1. For each of the first two fiscal years that a center is in operation, membership shall be apportioned as provided in subparagraph 3. based on projected customer entity usage rates for the fiscal operating year of the primary data center. However, at a minimum:

a. During the Southwood Shared Resource Center's first 2 operating years, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of Health, and the Department of Revenue must each have at least one trustee.

b. During the Northwood Shared Resource Center's first operating year, the Department of State and the Department of Education must each have at least one trustee.

2. After the second full year of operation, membership shall be apportioned as provided in subparagraph 3. based on the most recent estimate of

customer entity usage rates for the prior year and a projection of usage rates for the first 9 months of the next fiscal year. Such calculation must be completed before the annual budget meeting held before the beginning of the next fiscal year so that any decision to add or remove board members can be voted on at the budget meeting and become effective on July 1 of the subsequent fiscal year.

3. Membership shall be apportioned using the following criteria:

a. Customer entities of a primary data center whose usage rate represents 4 to 14 percent of total usage shall have one trustee.

b. Customer entities of a primary data center whose usage rate represents 15 to 29 percent of total usage shall have two trustees.

c. Customer entities of a primary data center whose usage rate represents 30 to 49 percent of total usage shall have three trustees.

d. A customer entity of a primary data center whose usage rate represents 50 percent or more of total usage shall have four trustees.

e. A single trustee shall represent those customer entities that represent less than 4 percent of the total usage. The trustee shall be selected by a process determined by the board.

f. The executive director of the Agency for Enterprise Information Technology shall serve as a voting member of the board.

(b) Before July 1 of each year, each board of trustees of a primary data center shall elect a chair and a vice chair to a term of 1 year or until a successor is elected. The vice chair shall serve in the absence of the chair. The vice chair may not be from the same customer entity as the chair. The chair may be elected to serve one additional successive term.

(c) Members of the board representing customer entities who fail to timely pay for data center services do not have voting rights.

(d) The board shall take action by majority vote. If there is a tie, the chair shall be on the prevailing side.

(3) BOARD DUTIES.—Each board of trustees of a primary data center shall:

(a) Employ an executive director, pursuant to s. 20.05, who serves at the pleasure of the board. The executive director is responsible for the daily operation of the primary data center, ensuring compliance with all laws and rules regulating the primary data center, managing primary data center employees, and the performance of the primary data center.

(b) Establish procedures for the primary data center to ensure that budgeting and accounting procedures, cost-recovery methodologies, and operating procedures are in compliance with laws governing the state data center system, rules adopted by the Agency for Enterprise Information Technology, and applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.

(c) Monitor the operation of the primary data center to ensure compliance by the executive director and employees with laws and rules governing the primary data center, and ensure that staff members are accountable for the performance of the primary data center.

(d) Provide each customer entity with full disclosure concerning plans for new, additional, or reduced service requirements, including expected achievable service levels and performance metrics.

(e) Ensure the sufficiency and transparency of the primary data center financial information by:

1. Establishing policies that ensure that cost-recovery methodologies, billings, receivables, expenditure, budgeting, and accounting data are captured and reported timely, consistently, accurately, and transparently and, upon adoption of rules by the Agency for Enterprise Information Technology, are in compliance with such rules.

2. Requiring execution of service-level agreements by the data center and each customer entity for services provided by the data center to the customer entity.

3. Requiring cost recovery for the full cost of services, including direct and indirect costs. The cost-recovery methodology must ensure that no service is subsidizing another service without an affirmative vote of approval by the customer entity providing the subsidy.

4. Establishing special assessments to fund expansions based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.

5. Providing rebates to customer entities when revenues exceed costs and offsetting charges to those who have subsidized other customer entity costs based on actual prior year final expenditures. Rebates may be credited against future billings.

6. Approving all expenditures committing over \$50,000 in a fiscal year.

7. Projecting costs and revenues at the beginning of the third quarter of each fiscal year through the end of the fiscal year. If in any given fiscal year the primary data center is projected to earn revenues that are below costs for that fiscal year after first reducing operating costs where possible, the board shall implement any combination of the following remedies to cover the shortfall:

a. The board may direct the primary data center to adjust current year chargeback rates through the end of the fiscal year to cover the shortfall. The rate adjustments shall be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.

b. The board may direct the primary data center to levy one-time charges on all customers entities to cover the shortfall. The one-time charges shall

be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.

c. The customer entities represented by each board member may provide payments to cover the shortfall in proportion to the amounts each entity paid in the prior fiscal year.

(f) Meet as often as necessary, but not less than once per quarter, and hold the annual budget meeting between April 1 and June 30 of each year.

(g) Approve the portfolio of services offered by the data center.

(h) By July 1 of each year, submit to the Agency for Enterprise Information Technology, proposed cost-recovery mechanisms and rate structures for all customer entities for the fiscal year including the cost-allocation methodology for administrative expenditures and the calculation of administrative expenditures as a percent of total costs.

(i) Consider energy-efficient products and their total cost of ownership when replacing, upgrading, or expanding:

1. Data center facilities, including, but not limited to, environmental, power, and control systems; and

2. Data center network, storage, and computer equipment. If the total cost of ownership, including initial acquisition cost, is estimated to be equal to or lower than existing infrastructure, technical specifications for energy-efficient products should be incorporated into the replacement, upgrade, or expansion planning and acquisition process.

Section 10. Section 282.204, Florida Statutes, is created to read:

282.204 Northwood Shared Resource Center.—

(1) Beginning July 1, 2008, a workgroup shall be established within the Department of Children and Family Services for the purpose of developing a plan for converting its data center to a primary data center. The workgroup shall be chaired by a member appointed by the secretary of the department. Workgroup members may include other state agencies who will be customers of the data center during the 2009-2010 fiscal year. The workgroup shall include staff members who have appropriate financial and technical skills as determined by the chair of the workgroup. The conversion plan shall address organizational changes, personnel changes, cost-allocation plan changes, and any other changes necessary to effectively convert to a primary state data center capable of providing computer services as required by s. 282.201. The workgroup shall submit recommendations for facilitating the conversion to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008.

(2) Effective July 1, 2009, the Northwood Shared Resource Center is established within the Department of Children and Family Services for

administrative purposes only. The center is designated as a primary data center and shall be a separate budget entity that is not subject to control, supervision, or direction of the department in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(3) The center shall be headed by a board of trustees as provided in s. 282.203, who shall comply with all requirements of that section related to the operation of the center and with the policies of the Agency for Enterprise Information Technology related to the design and delivery of enterprise information technology services.

Section 11. Section 282.205, Florida Statutes, is created to read:

282.205 Southwood Shared Resource Center.—

(1) Effective July 1, 2008, the Southwood Shared Resource Center is established within the Department of Management Services for administrative purposes only. The center is designated as a primary data center and shall be a separate budget entity that is not subject to control, supervision, or direction of the department in any manner, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(2) The Department of Management Services and the center shall identify resources associated with information technology functions which are not related to the support, management, and operation of the data center but which currently exist within the same budget entity as the data center. By October 1, 2008, the center shall submit a budget amendment to transfer resources associated with these functions to the Department of Management Services.

(3) The center shall be headed by a board of trustees as provided in s. 282.203, who shall comply with all requirements of that section related to the operation of the center and with the policies of the Agency for Enterprise Information Technology related to the design and delivery of enterprise information technology services.

Section 12. Paragraph (c) of subsection (1) of section 282.315, Florida Statutes, is amended to read:

282.315 Agency Chief Information Officers Council; creation.—The Legislature finds that enhancing communication, consensus building, coordination, and facilitation with respect to issues concerning enterprise information technology resources are essential to improving the management of such resources.

(1) There is created an Agency Chief Information Officers Council to:

(c) Identify efficiency opportunities among state agencies and make recommendations for action to the Agency for Enterprise Information Technology. This includes recommendations relating to the consolidation of agency data center and computing facilities, including operational policies, proce-

dures and standards for the consolidated facilities, and procedures and standards for planning the migration to consolidated facilities.

Section 13. Subsection (23) of section 287.057, Florida Statutes, is amended to read:

287.057 Procurement of commodities or contractual services.—

(23)(a) The department, in consultation with the Agency for Enterprise Information Technology ~~State Technology Office~~ and the Comptroller, shall develop a program for online procurement of commodities and contractual services. To enable the state to promote open competition and to leverage its buying power, agencies shall participate in the online procurement program, and eligible users may participate in the program. Only vendors prequalified as meeting mandatory requirements and qualifications criteria may ~~shall be permitted to~~ participate in online procurement.

(a) The department, in consultation with the agency ~~State Technology Office~~, may contract for equipment and services necessary to develop and implement online procurement.

(b) The department, in consultation with the agency ~~State Technology Office~~, shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to administer the program for online procurement. The rules shall include, but not be limited to:

1. Determining the requirements and qualification criteria for pre-qualifying vendors.
2. Establishing the procedures for conducting online procurement.
3. Establishing the criteria for eligible commodities and contractual services.
4. Establishing the procedures for providing access to online procurement.
5. Determining the criteria warranting any exceptions to participation in the online procurement program.

(c)~~1.~~ The department may impose and shall collect all fees for the use of the online procurement systems.

1. The fees may be imposed on an individual transaction basis or as a fixed percentage of the cost savings generated. At a minimum, the fees must be set in an amount sufficient to cover the projected costs of the services, including administrative and project service costs in accordance with the policies of the department. ~~All fees and surcharges collected under this paragraph shall be deposited in the Operating Trust Fund as provided by law.~~

2. If the department contracts with a provider for online procurement, the department, pursuant to appropriation, shall compensate the provider from the fees after the department has satisfied all ongoing costs. The

provider shall report transaction data to the department each month so that the department may determine the amount due and payable to the department from each vendor.

3. All fees that are due and payable to the state on a transactional basis or as a fixed percentage of the cost savings generated are subject to s. 215.31 and must be remitted within 40 days after receipt of payment for which the fees are due. For any fees that are not remitted within 40 days, the vendor shall pay interest at the rate established under s. 55.03(1) on the unpaid balance from the expiration of the 40-day period until the fees are remitted.

4. All fees and surcharges collected under this paragraph shall be deposited in the Operating Trust Fund as provided by law.

Section 14. Subsection (4) of section 445.011, Florida Statutes, is amended to read:

445.011 Workforce information systems.—

(4) Workforce Florida, Inc., shall coordinate development and implementation of workforce information systems with the executive director of the Agency for Enterprise Information Technology ~~state's Chief Information Officer in the State Technology Office~~ to ensure compatibility with the state's information system strategy and enterprise architecture.

Section 15. Subsection (2) and paragraphs (a) and (b) of subsection (4) of section 445.045, Florida Statutes, are amended to read:

445.045 Development of an Internet-based system for information technology industry promotion and workforce recruitment.—

(2) Workforce Florida, Inc., shall coordinate with the Agency for Enterprise Information Technology ~~State Technology Office~~ and the Agency for Workforce Innovation to ensure links, where feasible and appropriate, to existing job information websites maintained by the state and state agencies and to ensure that information technology positions offered by the state and state agencies are posted on the information technology website.

(4)(a) Workforce Florida, Inc., shall coordinate development and maintenance of the website under this section with the executive director of the Agency for Enterprise Information Technology ~~state's Chief Information Officer in the State Technology Office~~ to ensure compatibility with the state's information system strategy and enterprise architecture.

(b) Workforce Florida, Inc., may enter into an agreement with the Agency for Enterprise Information Technology ~~State Technology Office~~, the Agency for Workforce Innovation, or any other public agency with the requisite information technology expertise for the provision of design, operating, or other technological services necessary to develop and maintain the website.

Section 16. Paragraph (b) of subsection (18) of section 668.50, Florida Statutes, is amended to read:

668.50 Uniform Electronic Transaction Act.—

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.—

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the Agency for Enterprise Information Technology ~~state technology office~~, in consultation with the governmental agency, giving due consideration to security, may specify:

1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

Section 17. All data center functions performed, managed, operated, or supported by state agencies with resources and equipment currently located in a state primary data center created by this act, excluding application development, shall be transferred to the primary data center and that agency shall become a full-service customer entity by July 1, 2010. All resources and equipment located in the primary data center shall be operated, managed, and controlled by the primary data center. Data center functions include, but are not limited to, all data center hardware, software, staff, contracted services, and facility resources performing data center management and operations, security, production control, backup and recovery, disaster recovery, system administration, database administration, system programming, job control, production control, print, storage, technical support, help desk, and managed services.

(1) To accomplish the transition, each state agency that is a customer entity of a primary data center shall:

(a) By October 1, 2009, submit a plan to the board of trustees of the appropriate primary data center describing costs and resources currently used to manage and maintain hardware and operating and support software housed at the primary data center, and a plan for transferring all resources allocated to data center functions to the primary data center. The plan shall:

1. Include the itemized expenditures for all of the related equipment and software in the previous 5 fiscal years.

2. Propose averages or weighted averages for transferring spending authority related to equipment and software based upon spending in the previous 5 fiscal years and projected needs for the upcoming 2 fiscal years.

(b) Submit with its 2010-2011 legislative budget request budget adjustments necessary to accomplish the transfers. These adjustments shall include budget requests to replace existing spending authority in the appropriations categories used to manage, maintain, and upgrade hardware, operating software, and support software with an amount in a single appropriation category to pay for the services of the primary data center.

(2) The board of trustees of each primary data center shall:

(a) Be responsible for the efficient transfer of resources in user agencies relating to the provision of full services and shall coordinate the legislative budget requests of the affected agencies.

(b) Include in its 2010-2011 legislative budget request additional budget authority to accommodate the transferred functions.

(c) Develop proposed cost-recovery plans for its customer entities at its annual budget meeting held before July 1, 2010, using the principles established in s. 282.203, Florida Statutes.

Section 18. (1) The computing requirements currently provided by the mainframe resources of the Department of Transportation and the Department of Highway Safety and Motor Vehicles, each hereafter referred to as a mainframe agency, at the Suwannee and Kirkman Data Centers, respectively, and the Southwood Shared Resource Center, shall, by the first weekend after July 1, 2009, be consolidated within the Southwood Shared Resource Center.

(a) Mainframe consolidation may be achieved through any combination of strategies that leverage the primary data center's economies of scale and negotiating strengths as the single provider of mainframe services to achieve savings for the state.

(b) The Agency for Enterprise Information Technology in coordination with the Southwood Shared Resource Center shall negotiate with vendors providing mainframe hardware, operating and support software, mainframe peripherals, and related services.

(2) For the purposes of this section, the term:

(a) "Application software" means software that directly collects and processes data, directly automates government business processes, or directly renders government data into information.

(b) "Mainframe peripherals" means devices that store data processed by a mainframe, devices exclusively used to facilitate communication with mainframes, printers that print mainframe jobs, and any device directly connected to a mainframe.

(c) "Operating software" means software used to manage and facilitate the use of hardware and other software.

(d) "Support software" means software that is not operating software or application software.

(3) By September 1, 2008, the Southwood Shared Resource Center and each mainframe agency shall establish a service-level agreement for the mainframe transition period. The service-level agreement shall, at a minimum, include:

(a) An estimate of the type and quantity of services that the mainframe agency expects to use for the applicable period, including commitments and any related impending changes.

(b) A process both parties shall use for notifying each other of any change to the scope, quantity, or conditions of the services provided.

(c) Quality of service commitments from the Southwood Shared Resource Center to the mainframe agency.

(4) On September 1, 2008, each mainframe agency, in conjunction with the Southwood Shared Resource Center, shall implement the following regarding the mainframes used by the agency:

(a) Identification of staff, including vendors, responsible for managing, operating, and supporting each mainframe and mainframe peripherals who shall report to and be supervised by managers of the Southwood Shared Resource Center.

(b) Identification of mainframe hardware, mainframe operating and support software, and mainframe peripherals owned by the mainframe agency which shall become the property of the Southwood Shared Resource Center.

(c) Decisions regarding usage, replacement, extensions, and upgrades shall be made by the Southwood Shared Resource Center.

(5) By October 1, 2008, each mainframe agency shall provide the Southwood Shared Resource Center with the following:

(a) Comprehensive itemized inventories of mainframe hardware, support software, and peripherals.

(b) A comprehensive itemized list and description of all contracts, including a copy of each contract, for mainframe hardware, operating and support software, peripherals, and services.

(6) By December 31, 2008, after relevant vendor negotiations have been completed, the Southwood Shared Resource Center shall submit a plan for implementing mainframe consolidation to the center's board of trustees, the Agency for Enterprise Information Technology, the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives. The plan must include:

(a) A description of the work effort, time, agency budget adjustments for the 2009-2010 fiscal year, and expenditures necessary to complete the consolidation.

(b) An estimate of the long-term savings resulting from consolidation.

(c) Any short-term costs or savings from consolidation.

(7) By April 30, 2009, the following shall occur:

(a) The Southwood Shared Resource Center shall implement a cost-allocation plan for the purpose of establishing prices and total estimated costs for the remainder of the current fiscal year and the first full year the mainframe services will be provided to the mainframe agency.

(b) The Southwood Shared Resource Center and the mainframe agencies shall establish service-level agreements.

(8) In order to establish the appropriate budget authority to implement the consolidation of mainframe services within the Southwood Shared Resource Center:

(a) As part of their 2009-2010 legislative budget request, each mainframe agency shall decrease full-time equivalent positions and transfer spending authority in the existing appropriation categories which would have been used to maintain and operate mainframe services to the appropriation category necessary to pay for mainframe services at the Southwood Shared Resource Center.

(b) As part of its 2009-2010 legislative budget request, the Southwood Shared Resource Center shall request full-time equivalent positions, not to exceed the number of positions deleted in the mainframe agencies, and spending authority necessary to deliver mainframe services to each mainframe agency.

Section 19. Section 282.20, Florida Statutes, is repealed.

Section 20. Subsection (2) of section 282.322, Florida Statutes, is repealed.

Section 21. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.