State of Arkansas
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A Bill

SENATE BILL 1027

By: Senators G. Jeffress, Capps, J. Bookout, Glover, Holt, Salmon, Trusty
By: Representatives W. Lewellen, Dobbins, Pace, Adcock, Berry, Cook, M. Martin, Medley, Rainey, Rogers

For An Act To Be Entitled
AN ACT TO AMEND THE ENABLING LEGISLATION OF THE
DEPARTMENT OF INFORMATION SYSTEMS; AND FOR OTHER
PURPOSES.

Subtitle
TO AMEND THE ENABLING LEGISLATION OF THE
DEPARTMENT OF INFORMATION SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 25-4-102 is amended to read as follows:
25-4-102. Legislative findings and declaration of intent.
(a) The General Assembly finds and declares information and
information resources to be strategic assets of the State of Arkansas and
that procedures must be established to ensure that:
(1) Information resources are used in an efficient manner;
(2) Departmental resources are used unless an exception is
authorized;
(3) Information is administered and shared, consistent with
requirements for security, privacy, and confidentiality;
(4) Information technology acquisitions meet state needs and are
consistent with coordinated efforts to maximize standardization and cost
effectiveness; and
(5) State officials have timely access to information in useful
forms; and

(6) The Department of Information Systems complies with
applicable state and federal statutory and regulatory provisions.

(b) The General Assembly further declares its intent to create a state
agency to:

(1) Support the information technology initiatives established
by the Executive Chief Information Officer;

(2)(1) Provide design and management services for the state's
core information technology infrastructures;

(3)(2) Provide information technology services;

(4)(3) Implement appropriate technologies to exchange and share
information; and

(5)(4) Develop technical standards and provide technical
leadership and guidance to support the state’s shared technical architecture
as promulgated by the Executive Chief Information Officer.

(c) It is also the intent of the General Assembly that this state
agency the Department of Information Systems achieve certain objectives that
will better support information technology utilization by other state
agencies. These objectives are to:

(1) Implement increased capabilities for communication and
exchange of information; and

(2) Establish technical standards for information technology;

and

(3)(2) Develop and publish mechanisms for more timely
acquisition of information technology.

(d)(1) The General Assembly further finds and determines that:

(A) Information technology services are readily available
in the private sector;

(B) The public interest would be well-served by
competition for the provision of such services to the state;

(C) Public-private partnerships or joint ventures for the
provision of such services may be appropriate in certain instances; and

(D) Emphasis should will be given to encouraging and
enabling competition among suppliers of such services wherever possible in
the administration of this chapter; and

(E) Emphasis will be given to encouraging and enabling
competition among women-owned and minority-owned suppliers of such services wherever possible in the administration of this chapter.

(2) The Department of Information Systems shall consider in the development of the department plan and the Joint Committee on Advanced Communications and Information Technology shall emphasize in its recommendations and policies the availability in the private sector of information technology resources upon a competitive bid basis with a view to assuring the state of the highest reasonable quality of resources at the lowest reasonable cost.

(e)(1) In exercising its authority under § 25-4-105 the Department of Information Systems shall competitively procure information technology except as provided in this subsection (e).

(2) The department is not authorized by § 25-4-105 to provide information technology services, including telecommunications and broadband services, to the general public other than nongovernmental first responder entities, in competition with private sector telecommunications and cable communications providers.

(3) Customers of the department are not authorized to use information technology facilities and services provided by the department to provide telecommunications and broadband services to the general public in competition with private sector telecommunications and cable communications providers.

SECTION 2. Arkansas Code § 25-4-103 is amended to read as follows:

25-4-103. Definitions.

As used in this chapter:

(1) "Administrator" means the Administrator of the Office of Information Technology;

(2) "Application" means a separately identifiable and interrelated set of information technology resources that allows information processing to support specifically defined objectives;

(3) "Core information technology infrastructure" means the state data, state network and application interfaces, and state security, and disaster recovery;

(4) "Customer" means a state agency, other governmental entity, or nongovernmental first responder entity that purchases or uses services
under this chapter;

(4)(5) "Department" means the Department of Information Systems;

(5)(6) "Director" means the Director of the Department of
Information Systems;

(6)(7) "Equipment" means the machines, devices, and transmission
facilities used in information processing, including computers, word
processors, terminals, telephones, cables, software, and related services;

(7)(8) "Information processing" means the electronic capture,
collection, storage, manipulation, transmission, retrieval, and presentation
of information in the form of data, text, voice, or image and includes
telecommunications and office automation functions;

(8)(9) "Information technology" means any component related to
information processing and wired and wireless telecommunications, including
data processing and telecommunications hardware, software, services,
planning, personnel, facilities, and training;

(9)(10) "Information technology resources" means the procedures,
equipment, and software that are designed, built, operated, and maintained to
collect, record, process, store, retrieve, display, and transmit information,
and the associated personnel including consultants and contractors;

(10)(11) "Network infrastructure" means the shared portions of
the state's telecommunications transmission facilities, including all
transmission lines and all associated equipment and software components
necessary for the management and control of the state network;

(12) "Nongovernmental first responder entity" means state and
law enforcement personnel, fire department personnel, and emergency medical
personnel who will be deployed to bioterrorism attacks, terrorist attacks,
catastrophic or natural disasters, and emergencies;

(13) "Other governmental entities" means state-elected
constitutional officers and their staffs, the Supreme Court and the
Administrative Office of the Courts, the General Assembly or its committees
or staffs, the Arkansas State Highway and Transportation Department, the
Arkansas State Game and Fish Commission, the federal government, cities,
counties, municipalities, and public school districts;

(14) "Project" means a program to apply information
technology resources to functions within or among elements of a state agency
that ideally is characterized by well-defined parameters, specific
objectives, common benefits, planned activities, a scheduled completion date, and an established budget with a specified source of funding;

(15) "Project management" means principles, practices, and techniques applied to lead projects and teams and the control of project schedules, costs, and performance risks with the goal of satisfying customers' requirements.

(13)(16) "Public instrumentality" means any statutorily created entity charged with the responsibility of providing information or services through the use of information technology;

(14)(17) "State agencies" means all state departments, boards, and commissions but shall not include the elected constitutional officers and their staffs, the General Assembly and its committees and staffs, or the Supreme Court and the Administrative Office of the Courts, and public institutions of higher education with respect to academic, research, healthcare, and existing information technology applications and underlying support therefor;

(15)(18) "State of Arkansas shared technical architecture" means the structure of program or system components, how these components relate to one another, and the principles that govern their design and evolution over time; and

(16)(19) "Telecommunications" means all forms of communications devices and transport media for the conveyance by electronic or electrical means of voice, words, data, signals, or images.

SECTION 3. Arkansas Code § 25-4-105 is amended to read as follows:

25-4-105. Department of Information Systems - General powers and duties.

The Department of Information Systems shall be vested with all the powers and duties necessary to administer the department and to enable it to carry out fully and effectively the regulations and laws relating to the department. These powers and duties relate to information technology and include, but are not limited to:

(1) Conceptualizing, designing, developing, building, and maintaining common information technology infrastructure elements used by state agencies and governmental entities;

(2) Providing information technology services to state agencies.
and other governmental entities, and nongovernmental first responder entities;

(3) Entering into contracts with state agencies, and other governmental entities, and nongovernmental first responder entities for the purpose of providing information technology services;

(4)(A) Establishing fair and reasonable schedules of rates or fees to be paid by state agencies and governmental entities customers that are provided service to enable the department to defray the cost recover all allowable costs of providing the services as provided in this chapter.

(B) The same rate or fee structure will apply to all customers receiving services;

(5)(A) Establishing a billing rate plan estimated billing rates to be developed for a two-year period to coincide with the budgeting process. The same rate structure will apply to all agencies and entities receiving service.

(B) The department shall have the authority to adjust billing as necessary to effect compliance with applicable state and federal statutory and regulatory provisions.

(C) Billing adjustments shall be subject to the approval of the Chief Fiscal Officer of the State and review by the Legislative Council;

(6) Acquiring information technology on behalf of state agencies, the cost of which shall be recovered through customer billings or through direct funding;

(7) Promulgating rules and regulations that are necessary for efficient administration and enforcement of the powers, functions, and duties of the department as provided in this chapter;

(8) Developing a departmental plan to support the goals and objectives set forth for it in the state information technology plans and strategies. The department shall seek the advice of the Executive Chief Information Officer in the development of its plan; and

(9) Implementing systems to ensure the security of state data and state data processing assets, to provide for disaster recovery and continuity of operations to the state agencies served, and to recover its costs from the customers benefited; and

(9)(10) Performing any additional powers, functions, and duties
which are necessary and appropriate for the proper administration of the provisions of this chapter.

SECTION 4. Arkansas Code §§ 25-4-107 and 25-4-108 are amended to read as follows:

25-4-107. Office of Information Technology - General powers and duties. The Office of Information Technology shall be vested with all the powers and duties necessary to carry out regulations and laws relating to the department Executive Chief Information Officer and to oversee and administer information technology and shall:

(1) Assist the department Department of Information Systems in performing its duties;

(2) Review agencies' information technology plans and requests;

(3) Provide leadership in coordinating information technology;

(4) Advise agencies in acquiring information technology service;

(5) Advise agencies regarding information technology contracts and agreements;

(6) Monitor national and international standards relating to information technology;

(7) Develop and publish policies, procedures, and standards relating to information technology and ensure agencies' compliance with those policies, procedures, and standards;

(8) Develop standards to promote and facilitate electronic access to government information and interoperability of information systems;

(9) Develop a state information technology plan that shall establish a state-level mission, goals, and objectives for the use of information technology; and

(10) Foster interagency use of information technologies that is consistent with the established strategic direction of information technology and avoids unnecessary duplication.


(a) The Director of the Department of Information Systems Executive Chief Information Officer shall appoint working groups as necessary to provide the office with expertise and advice on information technology.

(b) Members shall have knowledge and experience in information
Members shall annually elect a chair.
(d) A working group may be convened by a majority of members, by its chair, or by the administrator.
(e) Members shall not receive compensation for service to the working groups.
(f) Members may receive reimbursement for actual and necessary expenses reasonably incurred in performing board service, subject to applicable limitations on reimbursement as provided by law.

SECTION 5. Arkansas Code § 25-4-109 is amended to read as follows:
25-4-109. Information technology centers.
(a) The Department of Information Systems is authorized to establish, maintain, and operate information technology centers and, in connection therewith, to rent, purchase, install, operate, and maintain information technology for state agencies as authorized in this chapter.
(b) The Department is authorized to enter into contracts or agreements with state agencies for the purpose of providing information technology.
(c) State agencies are authorized to enter into any contracts with the department or its successor which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter.
(d) Agencies shall use the state core telecommunications, data, application, and security infrastructures.
(e) The department is authorized to enter into agreements and contracts with public utilities for telecommunications service.
(f) The information technology centers operated by the department shall be made available to all state agencies which fall within economical and feasible boundaries.
(g) Agencies shall use project management for designated activities defined as a project.

SECTION 6. Arkansas Code § 25-4-112 is amended to read as follows:
25-4-112. Application to educational institutions.
(a)(1) In the case of state-supported institutions of higher education
and state-supported postsecondary vocational-technical schools, the
provisions of this chapter shall apply to business and administrative
applications of information technology but do not apply to academic and
research applications.

(2) On-campus telecommunications systems shall also be exempt
from the provisions of this chapter except where they are connected to the
state telecommunications network infrastructure.

(3) On-campus telecommunications systems shall be defined as
those bounded by the outer perimeter of contiguous campus property.

(b)(1) A state-supported institution of higher education, a post-
secondary vocational-technical school, an area vocational school, or a public
school district may request technical assistance regarding information
technology from the Office of Information Technology Department of
Information Systems.

(2) Assistance shall be provided by the office free of charge
within a reasonable period. The requesting institution shall reimburse the
Office of Information Technology Department of Information Systems for any
actual expenses incurred while providing requested technical assistance.

SECTION 7. Arkansas Code § 25-4-119 is amended to read as follows:

25-4-119. Budget procedures.

(a)(1) Prior to the commencement of budget hearings conducted by the
Legislative Council, the Director of the Department of Information Systems
shall prepare an operating budget indicating the amount of money which will
be required to operate the department each year of the succeeding biennium.

(2) The director shall also provide cost information to users of
information technology centers, and those who require new or expanded
information technology shall be provided cost estimates for inclusion in
their budget requests.

(b)(1) When the General Assembly has completed the appropriation
process, the director shall oversee budgetary planning for the department for
each fiscal year of the biennium.

(2) The proposed annual operating budget shall be submitted to
the Governor for his or her approval prior to the beginning of each fiscal
year.

(3)(A) During the course of the biennium, the director shall
make certain that the expenditures of the department do not exceed the income to be received by the department for the current fiscal year.

(B) Subject to the written approval of the Chief Fiscal Officer of the State upon the written application of the department and review by the Legislative Council, in order to effect compliance with state and federal statutory and regulatory provisions:

(i) The director shall adjust rates for services or issue billing adjustments as necessary; or

(ii) Funds sufficient to effect compliance shall be provided to the department.

(4)(A) If the director determines that rates charged to user agencies should be increased to meet the required expenditure level, he or she shall submit such proposed rate changes to the Governor for approval. If rates charged to a customer are increased to ensure compliance with state and federal statutory and regulatory provisions under subdivision (b)(3) of this section, then the director shall promptly notify the Governor, the Joint Committee on Advanced Communications and Information Technology, and all state agencies and other customers before any changes shall be effected.

(B) Rates shall be reviewed by the department on no less than an annual basis in order to ensure compliance with state and federal statutory and regulatory provisions.

(c) The quarterly allotment procedures applicable to state agencies, as defined by the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., shall be applicable to all appropriations funded directly through general revenue.

SECTION 8. Arkansas Code § 25-4-121 is amended to read as follows:

25-4-121. Department of Information Systems Revolving Fund.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Department of Finance and Administration the Department of Information Systems Revolving Fund.

(b) The fund shall consist of nonrevenue receipts derived from services provided to various agencies of the federal, state, city, and county governments, and any other moneys which may be provided by law for credit to the fund.

(c) All revenues received by the Department of Information Systems for
providing information technology services shall be deposited in the State Treasury as nonrevenue receipts, there to be used for the maintenance, operation, and improvement of the department.

(d) All revenues received from agencies or other governmental entities for information technology services provided by contracts between the Department of Information Systems and outside vendors may be deposited in the State Treasury as refund to expenditures.

(e) Subject to the written approval of the Chief Fiscal Officer of the State upon written application of the Department of Information Systems and review by the Legislative Council, the Director of the Department of Information Systems shall have the authority to transfer funds between the Information Technology Reserve Fund established by § 25-4-123 and the Department of Information Systems Revolving Fund established under this section for cash management purposes.

SECTION 9. Arkansas Code § 25-4-122 is amended to read as follows:

25-4-122. Reserve for equipment acquisition - Loans.

(a)(1) The Department of Information Systems is authorized to accumulate a reserve for equipment acquisition in an amount not to exceed the department's depreciation expense per fiscal year. The reserve shall be excluded from calculation of the department's fiscal year surplus.

(2)(A) In addition, the department is authorized to obtain from the State Board of Finance loans from the Budget Stabilization Trust Fund to supplement the reserve if the reserve is insufficient to handle the total cost of required equipment acquisitions.

(B) These loans and the reserve for equipment acquisition shall be used exclusively for major equipment acquisitions or improvements of information technology required in order to fulfill the requirements for one (1) or more user agencies.

(C) The loans from the Budget Stabilization Trust Fund to the Information Technology Reserve Fund shall be repaid within five (5) years from revenues derived from charges to users, and the annual loan repayment amount shall be computed as a part of the total yearly expenses of the department and shall be charged proportionately to users.

(b)(1)(A) However, before the State Board of Finance shall approve any requests for loans by the department authorized in subdivision (a)(2) of this
section, the requests shall be submitted to the Governor for his or her approval after the Governor has first obtained the advice of the Legislative Council in regard thereto.

(B) After having obtained advice, the Governor may in writing approve or reject the request.

(C) However, if the Legislative Council shall fail to give its written advice or opinion to the Governor within thirty (30) days after receiving notice of the request for loans, the Governor may proceed to act on the matter without the advice of the Legislative Council.

(2) The State Board of Finance shall make no loans if the approval of the Governor has not been obtained therefor.

(3) The State Board of Finance, after obtaining the approval in writing of the Governor, shall also review and may approve the loans and establish terms of repayment and a rate of interest to be paid by the Department of Information Systems Revolving Fund to the Budget Stabilization Trust Fund. The rate shall be approximately equivalent to the rate of interest the State Board of Finance is receiving on other investments at the time of approving the loan request.

SECTION 10. Arkansas Code § 25-4-124 is amended to read as follows:

25-4-124. Yearly computation of expenses - Disposition of surplus funds.

(a) Within thirty (30) days following the closing of each fiscal year, the Director of the Department of Information Systems shall compute the total yearly expenses, related to the services provided, incurred by the department and compare this figure to the amounts billed and paid by the various users of information technology services for the fiscal year. Within sixty (60) days following the final closing entries for the consolidated annual financial report for each fiscal year, the Director of the Department of Information Systems shall obtain from the Chief Fiscal Officer of the State the written approval of a plan that shall include a proposed methodology to make all appropriate adjustments to effect compliance with state and federal statutory and regulatory provisions for the fiscal year.

(b)(1) After the close of the fiscal year, any surplus of receipts over expenses less the reserve for equipment acquisition shall be credited to the various like users’ accounts within the Department of Information Systems.
Revolving Fund on a pro rata basis so that each user shall receive a percentage of the surplus which corresponds to the user's percentage of the total billings for that type of service to all users. If the plan under subsection (a) of this section requires appropriate credits or debits to customer accounts to effect compliance with state and federal statutory and regulatory provisions, the department shall make any adjustments within sixty (60) days after approval of the plan.

(2) Alternatively, In the event that a user customer no longer requires the services of the department, a fund transfer in the amount of that user's share of the calculated surplus customer's credits under the plan described in subsection (a) of this section shall be made from the Department of Information Systems Revolving Fund to the user's customer's treasury fund, upon certification of the amount thereof by the director to the Chief Fiscal Officer of the State and the Treasurer of State. In the event the user customer does not have a treasury fund, a warrant shall be issued by the department in payment of the user's proportionate share customer's credit.

(c) In the event that the user customer has an unpaid account balance for the preceding fiscal year due to the department, the user's share of the calculated surplus customer's credit shall be withheld until the account balance is satisfied.

/s/ G. Jeffress, et al

APPROVED: 04/11/2005