

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: H4/5/05
A Bill

SENATE BILL 1027

4
5 By: Senators G. Jeffress, Capps, J. Bookout, Glover, Holt, Salmon, Trusty
6 By: Representatives W. Lewellen, Dobbins, Pace, Adcock, Berry, Cook, M. Martin, Medley, Rainey,
7 Rogers

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9
10 **For An Act To Be Entitled**

11 AN ACT TO AMEND THE ENABLING LEGISLATION OF THE
12 DEPARTMENT OF INFORMATION SYSTEMS; AND FOR OTHER
13 PURPOSES.

14
15 **Subtitle**

16 TO AMEND THE ENABLING LEGISLATION OF THE
17 DEPARTMENT OF INFORMATION SYSTEMS.

18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code § 25-4-102 is amended to read as follows:
23 25-4-102. Legislative findings and declaration of intent.

24 (a) The General Assembly finds and declares information and
25 information resources to be strategic assets of the State of Arkansas and
26 that procedures must be established to ensure that:

- 27 (1) Information resources are used in an efficient manner;
28 (2) Departmental resources are used unless an exception is
29 authorized;
30 (3) Information is administered and shared, consistent with
31 requirements for security, privacy, and confidentiality;
32 (4) Information technology acquisitions meet state needs and are
33 consistent with coordinated efforts to maximize standardization and cost
34 effectiveness; ~~and~~
35 (5) State officials have timely access to information in useful
36 forms; and



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

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

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

7 ~~(2)(1)~~ Provide design and management services for the state's
8 core information technology infrastructures;

9 ~~(3)(2)~~ Provide information technology services;

10 ~~(4)(3)~~ Implement appropriate technologies to exchange and share
11 information; and

12 ~~(5)(4)~~ Develop technical standards and provide technical
13 leadership and guidance to support the state's shared technical architecture
14 as promulgated by the Executive Chief Information Officer.

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

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

21 ~~(2) Establish technical standards for information technology;~~
22 ~~and~~

23 ~~(3)(2)~~ Develop and publish mechanisms for more timely
24 acquisition of information technology.

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

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

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

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

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

35 (E) Emphasis will be given to encouraging and enabling
36 competition among women-owned and minority-owned suppliers of such services

1 wherever possible in the administration of this chapter.

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

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

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

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

22
23 SECTION 2. Arkansas Code § 25-4-103 is amended to read as follows:
24 25-4-103. Definitions.

25 As used in this chapter:

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

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

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

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

1 ~~(4)~~(5) "Department" means the Department of Information Systems;
2 ~~(5)~~(6) "Director" means the Director of the Department of
3 Information Systems;

4 ~~(6)~~(7) "Equipment" means the machines, devices, and transmission
5 facilities used in information processing, including computers, word
6 processors, terminals, telephones, cables, software, and related services;

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

11 ~~(8)~~(9) "Information technology" means any component related to
12 information processing and wired and wireless telecommunications, including
13 data processing and telecommunications hardware, software, services,
14 planning, personnel, facilities, and training;

15 ~~(9)~~(10) "Information technology resources" means the procedures,
16 equipment, and software that are designed, built, operated, and maintained to
17 collect, record, process, store, retrieve, display, and transmit information,
18 and the associated personnel including consultants and contractors;

19 ~~(10)~~(11) "Network infrastructure" means the shared portions of
20 the state's telecommunications transmission facilities, including all
21 transmission lines and all associated equipment and software components
22 necessary for the management and control of the state network;

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

27 ~~(11)~~(13) *"Other governmental entities" means state-elected*
28 *constitutional officers and their staffs, the Supreme Court and the*
29 *Administrative Office of the Courts, the General Assembly or its committees*
30 *or staffs, the Arkansas State Highway and Transportation Department, the*
31 *Arkansas State Game and Fish Commission, the federal government, cities,*
32 *counties, municipalities, and public school districts;*

33 ~~(12)~~(14) "Project" means a program to apply information
34 technology resources to functions within or among elements of a state agency
35 that ideally is characterized by well-defined parameters, specific
36 objectives, common benefits, planned activities, a scheduled completion date,

1 and an established budget with a specified source of funding;

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

6 ~~(13)~~(16) "Public instrumentality" means any statutorily created
7 entity charged with the responsibility of providing information or services
8 through the use of information technology;

9 ~~(14)~~(17) "State agencies" means all state departments, boards,
10 and commissions but shall not include the elected constitutional officers and
11 their staffs, the General Assembly and its committees and staffs, or the
12 Supreme Court and the Administrative Office of the Courts, and public
13 institutions of higher education with respect to academic, research,
14 healthcare, and existing information technology applications and underlying
15 support therefor;

16 ~~(15)~~(18) "State of Arkansas shared technical architecture" means
17 the structure of program or system components, how these components relate to
18 one another, and the principles that govern their design and evolution over
19 time; and

20 ~~(16)~~(19) "Telecommunications" means all forms of communications
21 devices and transport media for the conveyance by electronic or electrical
22 means of voice, words, data, signals, or images.

23
24 SECTION 3. Arkansas Code § 25-4-105 is amended to read as follows:

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

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

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

35 (2) Providing information technology services to state agencies,
36 ~~and~~ other governmental entities, and nongovernmental first responder

1 entities;

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

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

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

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

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

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

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

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

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

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

35 ~~(9)~~(10) Performing any additional powers, functions, and duties
36 which are necessary and appropriate for the proper administration of the

1 provisions of this chapter.

2

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

5 25-4-107. Office of Information Technology - General powers and duties.

6 The Office of Information Technology shall be vested with all the
7 powers and duties necessary to carry out regulations and laws relating to the
8 ~~department~~ Executive Chief Information Officer and to oversee and administer
9 information technology and shall:

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

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

13 (3) Provide leadership in coordinating information technology;

14 (4) Advise agencies in acquiring information technology service;

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

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

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

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

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

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

30

31 25-4-108. Office of Information Technology - Working groups.

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

35 (b) Members shall have knowledge and experience in information
36 technology.

1 (c) Members shall annually elect a chair.

2 (d) A working group may be convened by a majority of members, by its
3 chair, or by the administrator.

4 (e) Members shall not receive compensation for service to the working
5 groups.

6 (f) Members may receive reimbursement for actual and necessary
7 expenses reasonably incurred in performing board service, subject to
8 applicable limitations on reimbursement as provided by law.

9

10 SECTION 5. Arkansas Code § 25-4-109 is amended to read as follows:

11 25-4-109. Information technology centers.

12 (a) The Department of Information Systems is authorized to establish,
13 maintain, and operate information technology centers and, in connection
14 therewith, to rent, purchase, install, operate, and maintain information
15 technology for state agencies as authorized in this chapter.

16 (b) The Department is authorized to enter into contracts or agreements
17 with state agencies for the purpose of providing information technology.

18 (c) State agencies are authorized to enter into any contracts with the
19 department or its successor which may be necessary or desirable to effectuate
20 the purposes and policies of this chapter or for maximum utilization of
21 facilities and services which are the subject of this chapter.

22 (d) Agencies shall use the ~~state core telecommunications, data,
23 application, and security infrastructures~~ core information technology
24 infrastructure.

25 (e) The department is authorized to enter into agreements and
26 contracts with public utilities for telecommunications service.

27 (f) The information technology centers operated by the department
28 shall be made available to all state agencies which fall within economical
29 and feasible boundaries.

30 (g) Agencies shall use project management for designated activities
31 defined as a project.

32

33 SECTION 6. Arkansas Code § 25-4-112 is amended to read as follows:

34 25-4-112. Application to educational institutions.

35 (a)(1) In the case of state-supported institutions of higher education
36 and state-supported postsecondary vocational-technical schools, the

1 provisions of this chapter shall apply to business and administrative
2 applications of information technology but do not apply to academic and
3 research applications.

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

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

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

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

18

19 SECTION 7. Arkansas Code § 25-4-119 is amended to read as follows:
20 25-4-119. Budget procedures.

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

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

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

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

35 (3)(A) During the course of the biennium, the director shall
36 make certain that the expenditures of the department do not exceed the income

1 to be received by the department for the current fiscal year.

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

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

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

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

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

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

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

27 25-4-121. Department of Information Systems Revolving Fund.

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

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

35 (c) All revenues received by the Department of Information Systems for
36 providing information technology services shall be deposited in the State

1 Treasury as nonrevenue receipts, there to be used for the maintenance,
2 operation, and improvement of the department.

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

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

14
15 SECTION 9. Arkansas Code § 25-4-122 is amended to read as follows:
16 25-4-122. Reserve for equipment acquisition - Loans.

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

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

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

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

34 (b)(1)(A) However, before the State Board of Finance shall approve any
35 requests for loans by the department authorized in subdivision (a)(2) of this
36 section, the requests shall be submitted to the Governor for his or her

1 approval after the Governor has first obtained the advice of the Legislative
2 Council in regard thereto.

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

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

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

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

18
19 SECTION 10. Arkansas Code § 25-4-124 is amended to read as follows:

20 25-4-124. Yearly computation of expenses - Disposition of surplus
21 funds.

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

33 ~~(b)(1) After the close of the fiscal year, any surplus of receipts~~
34 ~~over expenses less the reserve for equipment acquisition shall be credited to~~
35 ~~the various like users' accounts within the Department of Information Systems~~
36 ~~Revolving Fund on a pro rata basis so that each user shall receive a~~

1 ~~percentage of the surplus which corresponds to the user's percentage of the~~
2 ~~total billings for that type of service to all users.~~ If the plan under
3 subsection (a) of this section requires appropriate credits or debits to
4 customer accounts to effect compliance with state and federal statutory and
5 regulatory provisions, the department shall make any adjustments within sixty
6 (60) days after approval of the plan.

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

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

21
22 */s/ G. Jeffress, et al*
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