

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2200

4
5 By: Representative Patterson
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE ARKANSAS INFORMATION SYSTEMS
10 ACT OF 1997, § 25-4-101 ET SEQ.; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 TO AMEND THE ARKANSAS INFORMATION
15 SYSTEMS ACT OF 1997, § 25-4-101 ET SEQ.
16
17

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

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

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

25 (1) Information resources are used in an efficient manner;

26 (2) Departmental resources are used unless an exception is
27 authorized;

28 (3) Information is administered and shared, consistent with
29 requirements for security, privacy, and confidentiality;

30 (4) Information technology acquisitions meet state needs and are
31 consistent with coordinated efforts to maximize standardization and cost
32 effectiveness;

33 (5) State officials have timely access to information in useful
34 forms; and

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



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

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

5 (2) Provide information technology services;

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

8 (4) Develop technical standards and specifications and provide
 9 technical leadership and guidance to support the state's enterprise
 10 architecture ~~subject to the written approval of the Chief Fiscal Officer of~~
 11 ~~the State.~~

12 (c) It is also the intent of the General Assembly that the department
 13 achieve certain objectives that will better support information technology
 14 utilization by other state agencies. These objectives are to:

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

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

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

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

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

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

26 (D) Emphasis will be given to encouraging and enabling
 27 competition among:

28 (i) Suppliers of such services whenever possible in
 29 the administration of this chapter; and

30 (ii) Women-owned and minority-owned suppliers of
 31 such services whenever possible in the administration of this chapter.

32 (2) The department shall consider in the development of the
 33 department plan and the Joint Committee on Advanced Communications and
 34 Information Technology shall emphasize in its recommendations and policies
 35 the availability in the private sector of information technology resources
 36 upon a competitive bid basis with a view to assuring the state of the highest

1 reasonable quality of resources at the lowest reasonable cost.

2 (e)(1) In exercising its authority under § 25-4-105, the department
3 shall competitively procure information technology except as provided in this
4 subsection.

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

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

15

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

17 25-4-103. Definitions.

18 As used in this chapter:

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

22 (2) " Chief Technology Officer" means the Director of the
23 Department of Information Systems;

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

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

30 ~~(5) "Department" means the Department of Finance and~~
31 ~~Administration;~~

32 ~~(6)~~(5) "Equipment" means the machines, devices, and transmission
33 facilities used in information processing, including computers, word
34 processors, terminals, telephones, cables, software, and related services;

35 ~~(7)~~(6) "Information processing" means the electronic capture,
36 collection, storage, manipulation, transmission, retrieval, and presentation

1 of information in the form of data, text, voice, or image and includes
 2 telecommunications and office automation functions;

3 ~~(8)~~(7) “Information technology” means any component related to
 4 information processing and wired and wireless telecommunications, including
 5 data processing and telecommunications hardware, software, services,
 6 planning, personnel, facilities, and training;

7 ~~(9)~~(8) “Information technology resources” means the procedures,
 8 equipment, and software that are designed, built, operated, and maintained to
 9 collect, record, process, store, retrieve, display, and transmit information,
 10 and the associated personnel, including consultants and contractors;

11 ~~(10)~~(9) “Network infrastructure” means the shared portions of
 12 the state’s telecommunications transmission facilities, including all
 13 transmission lines and all associated equipment and software components
 14 necessary for the management and control of the state network;

15 ~~(11)~~(10) “Nongovernmental first responder entity” means state
 16 and law enforcement personnel, fire department personnel, and emergency
 17 medical personnel who will be deployed to bioterrorism attacks, terrorist
 18 attacks, catastrophic or natural disasters, and other emergencies;

19 ~~(12)~~(11) “Other governmental entities” means state-elected
 20 constitutional officers and their staffs, the Supreme Court and the
 21 Administrative Office of the Courts, the General Assembly or its committees
 22 or staffs, the Arkansas State Highway and Transportation Department, the
 23 Arkansas State Game and Fish Commission, the federal government, cities,
 24 counties, municipalities, ~~and~~ public school districts, and other publicly
 25 funded governmental entities;

26 ~~(13)~~(12) “Project” means a program to apply information
 27 technology resources to functions within or among elements of a state agency
 28 that ideally is characterized by well-defined parameters, specific
 29 objectives, common benefits, planned activities, a scheduled completion date,
 30 and an established budget with a specified source of funding;

31 ~~(14)~~(13) “Project management” means principles, practices, and
 32 techniques applied to lead projects and teams and the control of project
 33 schedules, costs, and performance risks with the goal of satisfying
 34 customers’ requirements;

35 ~~(15)~~(14) “Public instrumentality” means any statutorily created
 36 entity charged with the responsibility of providing information or services

1 through the use of information technology;

2 ~~(16)~~(15) "State agencies" means all state departments, boards,
3 and commissions but shall not include the elected constitutional officers and
4 their staffs, the General Assembly and its committees and staffs, or the
5 Supreme Court and the Administrative Office of the Courts, and public
6 institutions of higher education with respect to academic, research,
7 healthcare, and existing information technology applications and underlying
8 support therefor;

9 ~~(17)~~(16) "State of Arkansas enterprise architecture" means ~~the~~
10 ~~structure of program or system components,~~ a description of the elements of
11 business processes and supporting technologies, policies, standards,
12 procedures, solutions, and infrastructures that:

13 (A) Makes up an enterprise; and

14 (B) Documents how these the components described in this
15 subdivision relate to one another, and the principles that govern their
16 design and evolution over time;

17 ~~(18)~~(17) "Telecommunications" means all forms of communications
18 devices and transport media for the conveyance by electronic or electrical
19 means of voice, words, data, signals, or images; and

20 ~~(19)~~(18) "Working group" means a group of subject matter experts
21 convened for the purpose of collaborating and devising strategies.

22
23 SECTION 3. Arkansas Code § 25-4-105 is amended to read as follows:
24 25-4-105. Department of Information Systems – General powers and
25 duties.

26 (a)(1) The Department of Information Systems shall be vested with all
27 the powers and duties necessary to administer the department and to enable it
28 to carry out fully and effectively the regulations and laws relating to the
29 department.

30 (2) ~~These~~ The department's powers and duties relate to
31 information technology and include, ~~but are not limited to~~ without
32 limitation:

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

36 (2) Providing information technology services to state agencies,

1 other governmental entities, ~~and~~ nongovernmental first responder entities,
 2 and other quasi-governmental entities;

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

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

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

12 (5)(A) Establishing estimated billing rates to be developed for
 13 a ~~two-year~~ period to coincide with the budgeting process.

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

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

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

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

26 (8) Developing a departmental plan to support the goals and
 27 objectives set forth for it in the state information technology plans and
 28 strategies;

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

33 (10) Performing any additional powers, functions, and duties
 34 that are necessary and appropriate for the proper administration of the
 35 provisions of this chapter;

36 (11) ~~Monitoring~~ Providing a State Cyber Security Office to

1 monitor information resource security issues, coordinating all security
 2 measures that could be used to protect resources by more than one (1)
 3 governmental entity, and acting as an information technology resource to
 4 other state agencies;

5 (12) Assisting in the development of an information technology
 6 security policy for state agencies;

7 (13) Developing the information technology security policy for
 8 state agencies;

9 (14) Advising agencies in acquiring information technology
 10 service;

11 (15) Developing the information technology policies, standards,
 12 and specifications for state agencies when requested and ensuring agencies'
 13 compliance with those policies, procedures, and standards;

14 (16) Participating in the development of information technology
 15 state contracts ~~as requested by a state agency,~~ including without limitation
 16 the identification of requirements, contract negotiation, and vendor
 17 evaluation;

18 (17) With respect to their technology functions and
 19 applications, all state departments, boards, commissions, and public
 20 institutions of higher education, consulting and cooperating with the
 21 Department of Information Systems in the formation and implementation of
 22 security policies for the state core information technology infrastructure;
 23 ~~and~~

24 (18) ~~Assisting in the development of~~ Developing a state
 25 information technology plan that shall establish a state-level mission,
 26 goals, and objectives for the use of information technology+;

27 (19) Identifying and establishing information technology
 28 solutions that can support more than one (1) agency in providing governmental
 29 services;

30 (20) Advising agencies regarding information technology
 31 contracts and agreements;

32 (21) Developing policies to promote and facilitate electronic
 33 access to government information and interoperability of information systems;
 34 and

35 (22) Reviewing and approving agencies' information technology
 36 plans and requests.

1 (b) ~~Nothing in this~~ This chapter shall not be construed to deprive,
 2 transfer, limit, or in any way alter or change any of the powers vested in
 3 the board of trustees of any institution of higher education under existing
 4 constitutional and statutory provisions.

5
 6 SECTION 4. Amend Arkansas Code § 25-4-106 to read as follows:

7 25-4-106. Reporting requirements.

8 (a)(1) The Director of the Department of Information Systems will
 9 report periodically to the Joint Committee on Advanced Communications and
 10 Information Technology regarding the status of the Department of Information
 11 Systems' information technology responsibilities in state government.

12 ~~(2) The director will forward to the Joint Committee on Advanced~~
 13 ~~Communications and Information Technology any statutory changes that the~~
 14 ~~department may recommend sufficiently in advance of the convening of the~~
 15 ~~regular session of the General Assembly.~~

16 ~~(3)~~(2) The director may report any factors that are outside the
 17 scope of the department but are deemed to inhibit or to promote the
 18 department's responsibilities.

19 (b)(1) By October 31, January 31, April 30, and July 31 of each fiscal
 20 year, the director shall compile and submit a report to the:

21 (A) Legislative Council, if submitted between regular
 22 sessions of the General Assembly;

23 (B) Joint Budget Committee, if submitted during a session
 24 of the General Assembly; and

25 (C) Joint Committee on Advanced Communications and
 26 Information Technology.

27 (2) The report shall:

28 (A) Detail all requests from state agencies, boards, and
 29 commissions for advice regarding information technology planning,
 30 implementation, installation, rates or fees, utilization of products,
 31 services, and integrations or upgrades to be added to all existing technology
 32 plans; and

33 (B) Provide a full report of all corresponding
 34 recommendations made by the department to the requesting state agencies,
 35 boards, and commissions.

36 (3) The report shall include:

1 (A) The name of the state agency, board, or commission
2 requesting the advice;

3 (B) The name and scope of the project for which advice is
4 being sought;

5 (C) The type of advice sought, for example, technical,
6 product or service utilization, planning, implementation, installation,
7 integration, or upgrades;

8 (D) A detailed explanation of all recommendations provided
9 by the department;

10 (E) How the recommendation fits into the information
11 technology plan of the agency, board, or commission;

12 (F) How the recommendation fits into the state's
13 information technology plan and ~~shared technical~~ state enterprise
14 architecture; and

15 (G) Other information as may be useful for policy making
16 decisions by the Legislative Council or the Joint Committee on Advanced
17 Communications and Information Technology.

18

19 SECTION 5. Arkansas Code § 25-4-107 is repealed.

20 ~~25-4-107. Department of Finance and Administration—General powers and~~
21 ~~duties.~~

22 ~~The Department of Finance and Administration shall:~~

23 ~~(1) Assist the Department of Information Systems in performing~~
24 ~~its duties;~~

25 ~~(2) Review and approve agencies' information technology plans~~
26 ~~and requests;~~

27 ~~(3) Advise agencies in acquiring information technology service;~~

28 ~~(4) Advise agencies regarding information technology contracts~~
29 ~~and agreements;~~

30 ~~(5) Develop and publish policies, procedures, and standards~~
31 ~~relating to information technology with advice and review from the Department~~
32 ~~of Information Systems and ensure agencies' compliance with those policies,~~
33 ~~procedures, and standards;~~

34 ~~(6) Develop policies to promote and facilitate electronic access~~
35 ~~to government information and interoperability of information systems;~~

36 ~~(7) Assist in developing a state information technology plan~~

1 ~~that shall establish a state level mission, goals, and objectives for the use~~
 2 ~~of information technology; and~~

3 ~~(8) Foster interagency use of information technologies that is~~
 4 ~~consistent with the established strategic direction of information technology~~
 5 ~~and avoids unnecessary duplication.~~

6
 7 SECTION 6. Amend Arkansas Code §25-4-110 as follows:
 8 25-4-110. Information technology – Planning.

9 ~~(a)(1) The Department of Finance and Administration shall assist in~~
 10 ~~developing the state information technology plan.~~

11 ~~(2) The Department of Information Systems shall submit monthly~~
 12 ~~status reports annually or when requested to the Joint Committee on Advanced~~
 13 ~~Communications and Information Technology.~~

14 ~~(b) The Department of Finance and Administration with advice and~~
 15 ~~review of the Department of Information Systems shall develop and maintain~~
 16 ~~information technology policies.~~

17 ~~(e)(1) Each state agency shall develop a biennial information~~
 18 ~~technology plan that establishes state agency goals, objectives, and policies~~
 19 ~~regarding the development and use of information technology.~~

20 (2)(A) Each state agency shall specifically include a policy
 21 regarding the use of the Internet.

22 (B) A statement of the agency’s policy regarding the use
 23 of the Internet shall include:

24 (i) The penalties for violations of the agency’s
 25 Internet policy;

26 (ii) The number of employees and computers that have
 27 access to the Internet and the percentage of those employees and computers to
 28 the total number of employees and computers;

29 (iii) The needs of the agency and how those needs
 30 relate to the use of the Internet; and

31 (iv) The responsibilities of the agency’s employees
 32 as those responsibilities relate to the efficient and responsible use of the
 33 Internet.

34 (3) Plans may be updated by agencies in a timely manner to
 35 remain current and must accommodate changes in the evolving state information
 36 technology plan and standards.

1 ~~(d)(c)~~ The Department of ~~Finance and Administration~~ Information
 2 Systems shall distribute criteria, elements, form, and format for agency
 3 plans. Plans may include, but not be limited to, the following:

4 (1) A statement of the agency’s mission, goals, and objectives
 5 for information technology;

6 (2) Goals and objectives for achieving electronic access to
 7 agency records, information, and services;

8 (3) Consideration of a variety of information technologies,
 9 including those that help transcend geographic locations, standard business
 10 hours, economic conditions of users, and disabilities;

11 (4) Compliance with the Freedom of Information Act of 1967, §
 12 25-19-101 et seq.;

13 (5) An explanation of how the state agency’s mission, goals, and
 14 objectives for information technology support and conform to the state
 15 information technology plan developed by the office;

16 (6) An implementation strategy to include:

17 (A) Annual implementation objectives of the plan;

18 (B) Methods to educate both state employees and the public
 19 in the effective use of access technologies; and

20 (C) Agency activities to increase electronic access to
 21 public records and information to be implemented within available resources
 22 and existing state agency planning processes;

23 (7) Projects and resources required to meet the objectives of
 24 the plan;

25 (8) Estimated schedules and funding required to implement
 26 identified projects;

27 (9) An evaluation of the agency’s performance relating to
 28 information technology;

29 (10) An assessment of progress made toward implementing the
 30 agency information technology plan;

31 (11) A discussion of progress toward electronic access to public
 32 information and enabling citizens to have two-way interaction for obtaining
 33 information and services from state agencies; and

34 (12) An inventory of state agency information technology.

35 ~~(e)(d)(1)~~ Plans developed or updated shall be submitted to the
 36 Department of ~~Finance and Administration~~ Information Systems.

1 (2) The ~~Department of Finance and Administration~~ department may
2 reject, require modification to, or approve plans as deemed appropriate.

3 (3) Plans shall be modified by the state agency as necessary.

4 ~~(f)~~(e)(1) Plans developed or updated by public instrumentalities shall
5 be submitted for review to the Joint Committee on Advanced Communications and
6 Information Technology.

7 (2) The committee may seek the assistance of the Department of
8 ~~Finance and Administration~~ Information Systems in conducting this review.

9 (3) Plans shall be modified by the public instrumentality as
10 necessary.

11
12 SECTION 7. Arkansas Code § 25-4-111 is amended to read as follows:

13 25-4-111. Information technology – Prerequisites.

14 (a) Unless the agency first receives approval for a plan or an updated
15 plan as provided for under § 25-4-110, ~~no~~ a state agency shall not:

16 (1) Acquire by purchase or lease any new or additional
17 information technology; or

18 (2) Enter into any contract for information technology.

19 (b) If an agency desires to acquire information technology not part of
20 an information technology plan approved under § 25-4-110, the requesting
21 agency shall submit a waiver request to the Director of the Department of
22 ~~Finance and Administration~~ Information Systems that includes:

23 (1) Identification of necessary additional services or
24 improvements in information technology;

25 (2) Relationship of the information technology improvements or
26 additions to the overall goals of the agency;

27 (3) Resources needed to provide the additional services or
28 improvements; and

29 (4) Measurement and evaluation criteria.

30 (c)(1) Upon evaluation of the waiver request, the Director of the
31 Department of ~~Finance and Administration~~ Information Systems shall notify the
32 agency in writing of his or her approval or rejection of the request and his
33 or her reasons ~~therefor~~.

34 (2) The Director of the Department of ~~Finance and Administration~~
35 Information Systems shall make his or her evaluation in a timely manner. If
36 the Director of the Department of ~~Finance and Administration~~ Information

1 Systems requires more than thirty (30) days to complete the evaluation, he or
 2 she shall report in writing to the Governor his or her reasons for the delay
 3 in completion.

4 (3) If the Director of the Department of ~~Finance and~~
 5 ~~Administration~~ Information Systems rejects a request for a waiver, ~~no~~ a state
 6 agency shall not make any expenditure of public funds for the acquisition or
 7 expansion of information technology equipment or services.

8 (4) If the Director of the Department of ~~Finance and~~
 9 ~~Administration~~ Information Systems determines that the agency needs
 10 additional information technology resources, he or she may:

11 (A) Authorize the agency to acquire the requested
 12 information technology in accordance with the state enterprise architecture;

13 (B) Authorize acquisition of a modified information
 14 technology configuration;

15 (C) Notify the agency of the availability of department
 16 facilities to provide the requested information technology; or

17 (D) Recommend that the information technology be provided
 18 through the facilities of some other designated state agency.

19 (d) All state agencies shall comply with the provisions of the
 20 Arkansas Procurement Law, § 19-11-201 et seq., and applicable provisions of
 21 the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., in
 22 the acquisition, purchase, contracting for the purchase of, and leasing of
 23 information technology.

24
 25 SECTION 8. Arkansas Code § 25-4-114 is amended to read as follows:

26 25-4-114. Contracts and agreements for information technology.

27 (a) ~~In the event a state agency and the Department of Information~~
 28 ~~Systems are unable to resolve a dispute, the matter shall jointly be referred~~
 29 ~~to the Director of the Department of Finance and Administration for~~
 30 ~~resolution.~~ Contracts and agreements for state agencies for information
 31 technology shall adhere to the state enterprise architecture.

32 (b) A state agency shall submit to the Director of the Department of
 33 Information Systems for review and approval a request for the state agency to
 34 enter into a technology contract or agreement that is not in compliance with
 35 the state enterprise architecture.

36 ~~(b)(c)~~ (c) Contracts for the provision of information technology are

1 interagency agreements and are exempt from the provisions of the Arkansas
2 Procurement Law, § 19-11-201 et seq., and the General Accounting and
3 Budgetary Procedures Law, § 19-4-101 et seq., nor are they required to be
4 submitted to the Legislative Council for advice.

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