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HOUSE DRH70288-LR-91B (03/07)

Short Title: State IT Governance/No State Agencies Exempt. (Public)

Sponsors: Representatives Blackwell, Saine, Tolson, and Avila (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL STATE AGENCY EXEMPTIONS RELATING TO STATE
3 INFORMATION TECHNOLOGY GOVERNANCE, SECURITY, AND
4 PROCUREMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 147-33.72C(d) reads as rewritten:

7 "(d) ~~General Quality Assurance. — Information technology projects that are not subject to~~
8 ~~review and approval under subsection (a) of this section shall meet all other standards~~
9 ~~established under this Article."~~

10 SECTION 2. G.S. 147-33.80 reads as rewritten:

11 "§ 147-33.80. ~~Exempt agencies.~~Applicability.

12 ~~Except as~~Unless otherwise specifically provided by law, this Article shall ~~not~~ apply to the
13 General Assembly, the Judicial Department, ~~or and~~ The University of North Carolina and its
14 constituent institutions. These agencies ~~may elect to~~shall participate in the information
15 technology programs, services, or contracts offered by the Office, including information
16 technology procurement, in accordance with the statutes, policies, and rules of the Office."

17 SECTION 3. G.S. 147-33.81 reads as rewritten:

18 "§ 147-33.81. Definitions.

19 As used in this Article:

- 20 (1) ~~"Distributed information technology assets" means hardware,~~Distributed
21 information technology assets. — Hardware, software, and communications
22 equipment not classified as traditional mainframe-based items, including
23 personal computers, local area networks (LANs), servers, mobile computers,
24 peripheral equipment, and other related hardware and software items.
25 (2) ~~"Information technology" means electronic~~Information technology. —
26 Electronic data processing goods and services, telecommunications goods
27 and services, security goods and services, microprocessors, software,
28 information processing, office systems, any services related to the foregoing,
29 and consulting or other services for design or redesign of information
30 technology supporting business processes.
31 (3) ~~"Information technology enterprise management" means a~~Information
32 technology enterprise management. — A method for managing distributed
33 information technology assets from acquisition through retirement so that
34 total ownership costs (purchase, operation, maintenance, disposal, etc.) are
35 minimized while maximum benefits are realized.



- 1 (4) ~~"Information technology portfolio management"~~ means a Information
2 technology portfolio management. – A business-based approach for
3 analyzing and ranking potential technology investments and selecting those
4 investments that are the most cost-effective in supporting the strategic
5 business and program objectives of the agency.
- 6 (5) ~~"Office" means the Office.~~ – The Office of Information Technology Services
7 as established in this Article.
- 8 (6) ~~"State agency" means any State agency.~~ – Any State agency, department,
9 institution, commission, committee, board, division, bureau, office, officer,
10 or official of the State, State, or The University of North Carolina. The term
11 ~~does not include any State entity excluded from coverage under this Article~~
12 ~~by G.S. 147-33.80,~~ includes the legislative and judicial branches, unless
13 otherwise expressly provided."

14 **SECTION 4.** G.S. 147-33.82(b) reads as rewritten:

15 "(b) Notwithstanding any other provision of law, local governmental entities may use the
16 information technology programs, services, or contracts offered by the Office, including
17 information technology procurement, in accordance with the statutes, policies, and rules of the
18 Office. For purposes of this subsection, "local governmental entities" includes local school
19 administrative units, as defined in G.S. 115C-5, and community colleges. Local governmental
20 entities are not required to comply with otherwise applicable competitive bidding requirements
21 when using contracts established by the Office. ~~Any other State entities may also use the~~
22 ~~information technology programs, services, or contracts offered by the Office, including~~
23 ~~information technology procurement, in accordance with the statutes, policies, and rules of the~~
24 ~~Office."~~

25 **SECTION 5.** G.S. 147-33.83(a) reads as rewritten:

26 "**§ 147-33.83. Information resources centers and services.**

27 (a) With respect to all ~~executive departments and agencies of State government, except~~
28 ~~the Department of Justice if they do not elect at their option to participate,~~ State agencies, the
29 Office of Information Technology Services shall have all of the following powers and duties:

- 30 (1) To establish and operate information resource centers and services to serve
31 two or more departments on a cost-sharing basis, if the State CIO, after
32 consultation with the Office of State Budget and Management, decides it is
33 advisable from the standpoint of efficiency and economy to establish these
34 centers and services.
- 35 (2) With the approval of the Office of State Budget and Management, to charge
36 each department for which services are performed its proportionate part of
37 the cost of maintaining and operating the shared centers and services.
- 38 (3) To require any department served to transfer to the Office ownership,
39 custody, or control of information processing equipment, supplies, and
40 positions required by the shared centers and services.
- 41 (4) To adopt reasonable rules for the efficient and economical management and
42 operation of the shared centers, services, and the integrated State
43 telecommunications network.
- 44 (5) To adopt plans, policies, procedures, and rules for the acquisition,
45 management, and use of information technology resources ~~in the~~
46 ~~departments affected by this section~~ to facilitate more efficient and economic
47 use of information technology in these departments.
- 48 (6) To develop and promote training programs to efficiently implement, use, and
49 manage information technology resources.
- 50 (7) To provide cities, counties, and other local governmental units with access to
51 the Office of Information Technology Services, information resource centers

1 and services as authorized in this section for State agencies. Access shall be
2 provided on the same cost basis that applies to State agencies.

3 (b) No data of a confidential nature, as defined in the General Statutes or federal law,
4 may be entered into or processed through any cost-sharing information resource center or
5 network established under this section until safeguards for the data's security satisfactory to the
6 department head and the State Chief Information Officer have been designed and installed and
7 are fully operational. Nothing in this section may be construed to prescribe what programs to
8 satisfy a department's objectives are to be undertaken, nor to remove from the control and
9 administration of the departments the responsibility for program efforts, regardless whether
10 these efforts are specifically required by statute or are administered under the general program
11 authority and responsibility of the department. This section does not affect the provisions of
12 G.S. 147-64.6, 147-64.7, or 147-33.91.

13 (c) ~~Notwithstanding any other provision of law, the~~ The Office of Information
14 Technology Services ~~shall~~ may provide information technology services on a cost-sharing basis
15 to the General Assembly and its agencies as requested by the Legislative Services
16 Commission."

17 **SECTION 6.** G.S. 147-33.84 reads as rewritten:

18 "**§ 147-33.84. Deviations authorized for Department of Revenue; agency State agency**
19 **requests for deviations.**

20 (a) ~~The Department of Revenue is authorized to deviate from any provision in~~
21 ~~G.S. 147-33.83(a) that requires departments or agencies to consolidate information processing~~
22 ~~functions on equipment owned, controlled, or under custody of the Office of Information~~
23 ~~Technology Services. All deviations by the Department of Revenue pursuant to this section~~
24 ~~shall be reported in writing within 15 days by the Department of Revenue to the State CIO and~~
25 ~~shall be consistent with available funding. Any State agency may apply in writing to the State~~
26 ~~CIO for authority to deviate.~~ deviate from the provisions in G.S. 147-33.83(a). If granted, any
27 deviation shall be consistent with available funding and shall be subject to such terms and
28 conditions as may be specified by the State CIO. If the agency's request for deviation is denied
29 by the State CIO, the agency may request a review of the decision pursuant to
30 G.S. 147-33.72D.

31 (b) ~~The Department of Revenue is authorized to adopt and shall~~ Pursuant to a deviation
32 granted by the State CIO, a State agency may adopt plans, policies, procedures, requirements,
33 and rules for the acquisition, management, and use of information processing equipment,
34 information processing programs, data communications capabilities, and information systems
35 personnel in the Department of Revenue. personnel that are consistent with the requirements of
36 the deviation. If the plans, policies, procedures, requirements, rules, or standards adopted by the
37 Department of Revenue deviate from the policies, procedures, or guidelines adopted by the
38 Office of Information Technology Services, those deviations shall be allowed and shall be
39 reported in writing within 15 days by the Department of Revenue to the State CIO. The
40 Department of Revenue and the Office of Information Technology Services shall develop data
41 communications capabilities between the two computer centers utilizing the North Carolina
42 Integrated Network, subject to a security review by the Secretary of Revenue.

43 (c) ~~The Department of Revenue shall prepare a plan to allow for substantial recovery~~
44 ~~and operation of major, critical computer applications.~~ The State CIO shall review deviations
45 granted to State agencies under this section prior to July 1, 2013. The State CIO shall adopt a
46 plan to bring each deviation within the State CIO's general governance under this Article as
47 soon as practicable. The plan shall include the names of the computer programs, databases, and
48 data communications capabilities, identify the maximum amount of outage that can occur prior
49 to the initiation of the plan and resumption of operation. The plan shall be consistent with
50 commonly accepted practices for disaster recovery in the information processing industry. The

1 plan shall be tested as soon as practical, but not later than six months, after the establishment of
2 the Department of Revenue information processing capability.

3 ~~(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the~~
4 ~~Department of Revenue shall review and evaluate any deviations and shall, in consultation with~~
5 ~~the Office of Information Technology Services, adopt a plan to phase out any deviations that~~
6 ~~are not determined to be necessary in carrying out functions and responsibilities unique to the~~
7 ~~Department. The plan adopted by the Department shall include a strategy to coordinate its~~
8 ~~general information processing functions with the Office of Information Technology Services~~
9 ~~in the manner prescribed by G.S. 147-33.83(a) and provide for its compliance with policies,~~
10 ~~procedures, and guidelines adopted by the Office of Information Technology Services. The~~
11 ~~Department of Revenue shall submit its plan to the Office of State Budget and Management by~~
12 ~~January 15, 2005."~~

13 **SECTION 7.** G.S. 147-33.91 reads as rewritten:

14 **"§ 147-33.91. Telecommunications services; duties of State Chief Information Officer**
15 **with respect to State agencies.**

16 (a) With respect to State agencies, the State Chief Information Officer shall exercise
17 general coordinating authority for all telecommunications matters relating to the internal
18 management and operations of those agencies. In discharging that responsibility, the State
19 Chief Information Officer, in cooperation with affected State agency heads, may:

- 20 (1) Provide for the establishment, management, and operation, through either
21 State ownership, contract, or commercial leasing, of the following systems
22 and services as they affect the internal management and operation of State
23 agencies:
- 24 a. Central telephone systems and telephone networks.
 - 25 b. Repealed by Session Laws 2004-129, s. 23, effective July 1, 2004.
 - 26 c. Repealed by Session Laws 2004-129, s. 23, effective July 1, 2004.
 - 27 d. Satellite services.
 - 28 e. Closed-circuit TV systems.
 - 29 f. Two-way radio systems.
 - 30 g. Microwave systems.
 - 31 h. Related systems based on telecommunication technologies.
 - 32 i. The "State Network", managed by the Office, which means any
33 connectivity designed for the purpose of providing Internet Protocol
34 transport of information to any building.
- 35 (2) Coordinate the development of cost-sharing systems for respective user
36 agencies for their proportionate parts of the cost of maintenance and
37 operation of the systems and services listed in subdivision (1) of this
38 subsection.
- 39 (3) Assist in the development of coordinated telecommunications services or
40 systems within and among all State agencies and recommend, where
41 appropriate, cooperative utilization of telecommunication facilities by
42 aggregating users.
- 43 (4) Perform traffic analysis and engineering for all telecommunications services
44 and systems listed in subdivision (1) of this subsection.
- 45 (5) Pursuant to G.S. 143-49, establish telecommunications specifications and
46 designs so as to promote and support compatibility of the systems within
47 State agencies.
- 48 (6) Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests
49 by State agencies for the procurement of telecommunications systems or
50 services.

- 1 (7) Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes,
2 coordinate the review of requests by State agencies for State government
3 property acquisition, disposition, or construction for telecommunications
4 systems requirements.
- 5 (8) Provide a periodic inventory of telecommunications costs, facilities,
6 systems, and personnel within State agencies.
- 7 (9) Promote, coordinate, and assist in the design and engineering of emergency
8 telecommunications systems, including, but not limited to, the 911
9 emergency telephone number program, Emergency Medical Services, and
10 other emergency telecommunications services.
- 11 (10) Perform frequency coordination and management for State agencies and
12 local governments, including all public safety radio service frequencies, in
13 accordance with the rules and regulations of the Federal Communications
14 Commission or any successor federal agency.
- 15 (11) Advise all State agencies on telecommunications management planning and
16 related matters and provide through the State Personnel Training Center or
17 the Office of Information Technology Services training to users within State
18 agencies in telecommunications technology and systems.
- 19 (12) Assist and coordinate the development of policies and long-range plans,
20 consistent with the protection of citizens' rights to privacy and access to
21 information, for the acquisition and use of telecommunications systems, and
22 base such policies and plans on current information about State
23 telecommunications activities in relation to the full range of emerging
24 technologies.
- 25 ~~(13) Work cooperatively with the North Carolina Agency for Public
26 Telecommunications in furthering the purpose of this section.~~

27 (b) ~~The provisions of this section shall not apply to the Criminal Information Division
28 of the Department of Justice or to the Judicial Information System in the Judicial Department."~~

29 **SECTION 8.** G.S. 147-33.111(b) reads as rewritten:

30 ~~"(b) If the legislative branch, the judicial branch, The University of North Carolina and
31 its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the
32 North Carolina Community Colleges System develop their own security standards, taking into
33 consideration the mission and functions of that entity, that are comparable to or exceed those
34 set by the State Chief Information Officer under this section, then these entities may elect to be
35 governed by their own respective security standards, and approval of the State Chief
36 Information Officer shall not be required before the purchase of information technology
37 security. The State Chief Information Officer shall consult with the legislative branch, the
38 judicial branch, The University of North Carolina and its constituent institutions, local school
39 administrative units, and the North Carolina Community Colleges System in reviewing the
40 security standards adopted by those entities."~~

41 **SECTION 9.** G.S. 143-661(a) reads as rewritten:

42 "(a) The Criminal Justice Information Network Governing Board is established within
43 the Office of the State Chief Information Officer to operate the State's Criminal Justice
44 Information Network, the purpose of which shall be to provide the governmental and technical
45 information systems infrastructure necessary for accomplishing State and local governmental
46 public safety and justice functions in the most effective manner by appropriately and efficiently
47 sharing criminal justice and juvenile justice information among law enforcement, judicial, and
48 corrections agencies. ~~The Board is established within the Office of the State Chief Information
49 Officer, for organizational and budgetary purposes only and the Board shall exercise all of its
50 statutory powers in this Article independent of control by the Office of the State Chief
51 Information Officer."~~

SECTION 10. G.S. 143C-3-3(e) reads as rewritten:

"(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

- (1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.
- (2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.
- (3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.
- (4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

~~This subsection shall not apply to requests submitted by the General Assembly, the Administrative Office of the Courts, or The University of North Carolina."~~

SECTION 11. This act is effective when it becomes law.