

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-148
SENATE BILL 869

AN ACT TO TRANSFER TECHNOLOGY-RELATED FUNCTIONS OF STATE
GOVERNMENT TO THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

Section 1. (a) The following agencies, including all functions, powers, and duties of each, are transferred from the Office of State Controller to the Department of Commerce:

- (1) Information Resource Management Commission.
- (2) State Information Processing Services.
- (3) State Telecommunications Services.

(b) Budgetary responsibilities for the agencies and services listed in subsection (a) of this section are transferred from the Office of State Controller to the Department of Commerce. The positions, funds, equipment, supplies, records, and other property to support the functions transferred by this section are also transferred from the Office of State Controller to the Department of Commerce. Any disputes arising out of this transfer shall be resolved by the Director of the Budget.

Section 2. Part 23 of Article 9 of Chapter 143B of the General Statutes is recodified as Part 16 of Article 10 of Chapter 143B of the General Statutes, to be entitled "Information Technology Related State Government Functions", and G.S. 143B-426.21 is recodified as G.S. 143B-472.41.

Section 3. G.S. 143B-426.39(14), (15), and (16) are recodified as G.S. 143B-472.42(1), (2), and (3).

Section 4. G.S. 143B-426.39A is recodified as G.S. 143B-472.43.

Section 5. G.S. 143B-426.40 is recodified as G.S. 143B-472.44.

Section 6. Part 16 of Article 10 of Chapter 143B of the General Statutes, as created by this act, reads as rewritten:

"Part 16. Information Technology Related Functions.

"§ 143B-472.41. Information Resource Management Commission.

(a) Creation; Membership. – The Information Resource Management Commission is created in the ~~Office of the State Controller.~~ Department of Commerce. The Commission consists of the following members:

- (1) Four members of the Council of State, appointed by the Governor.
- (2) The Secretary of Administration.
- (3) The State Budget Officer.
- (4) Two members of the Governor's cabinet, appointed by the Governor.

- (5) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (6) One citizen of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (7) The Chair of the Governor's Committee on Data Processing and Information Systems.
- (8) The Chair of the State Information Processing Services Advisory Board.
- (9) The Chair of the Criminal Justice Information Network Governing Board.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or telecommunications vendor of goods and services to the State of North Carolina.

The two initial cabinet members appointed by the Governor and the two initial citizen members appointed by the General Assembly shall each serve a term beginning September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service of the Commission if they are no longer cabinet members.

The appointees by the Governor from the Council of State shall each serve a term beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their successors shall be appointed for four-year terms, commencing July 1. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The Secretary of ~~Administration~~Commerce shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency.

- (b) Powers and Duties. – The Commission has the following powers and duties:
 - (1) To develop, approve, and publish a statewide information technology strategy covering the current and following biennium that shall be updated annually and shall be submitted to the General Assembly on the first day of each regular session.

- (2) To develop, approve, and sponsor statewide technology initiatives and to report on those initiatives in the annual update of the statewide information technology strategy.
- (3) To review and approve biennially the information technology plans of the executive agencies, including their plans for the procurement and use of personal computers and workstations.
- (4) To recommend to the Governor and the Office of State Budget and Management the relative priorities across executive agency information technology plans.
- (5) To establish a quality assurance policy for all agency information technology projects, information systems training programs, and information systems documentation.
- (6) To establish and enforce a quality review and expenditure review procedure for major agency information technology projects.
- (7) To review and approve expenditures from appropriations made to the Office of State Budget and Management for the purpose of creating a Computer Reserve Fund.
- (8) To develop and promote a policy and procedures for the fair and competitive procurement of information technology consistent with the rules of the Department of Administration and consistent with published industry standards for open systems that provide agencies with a vendor-neutral operating environment where different information technology hardware, software, and networks operate together easily and reliably.

(c) Meetings. – The Information Resources Management Commission shall adopt bylaws containing rules governing its meeting procedures. The Information Resources Management Commission shall meet at least monthly.

"§ 143B-472.42. Powers and duties of the Secretary of Commerce.

The Secretary of Commerce shall:

- (1) With respect to State agencies, exercise general coordinating authority for all telecommunications matters relating to the internal management and operations of these agencies. In discharging that responsibility the ~~State Controller~~ Secretary of Commerce may in cooperation with affected State agency heads, do such of the following things as ~~he~~ the Secretary of Commerce deems necessary and advisable:
 - a. Provide for the establishment, management, and operation, through either State ownership or commercial leasing, of the following systems and services as they affect the internal management and operation of State agencies:
 1. Central telephone systems and telephone networks;
 2. Teleprocessing systems;
 3. Teletype and facsimile services;
 4. Satellite services;
 5. Closed-circuit TV systems;

6. Two-way radio systems;
 7. Microwave systems;
 8. Related systems based on telecommunication technologies.
- b. With the approval of the Information Technology Council, coordinate the development of cost-sharing systems for respective user agencies for their proportionate parts of the cost of maintenance and operation of the systems and services listed in item 'a.' of this subdivision.
 - c. Assist in the development of coordinated telecommunications services or systems within and among all State agencies and recommend, where appropriate, cooperative utilization of telecommunication facilities by aggregating users.
 - d. Perform traffic analysis and engineering for all telecommunications services and systems listed in item 'a.' of this subdivision.
 - e. Pursuant to G.S. 143-49, establish telecommunications specifications and designs so as to promote and support compatibility of the systems within State agencies.
 - f. Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of requests by State agencies for the procurement of telecommunications systems or services.
 - g. Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes, coordinate the review of requests by State agencies for State government property acquisition, disposition, or construction for telecommunications systems requirements.
 - h. Provide a periodic inventory of telecommunications costs, facilities, systems, and personnel within State agencies.
 - i. Promote, coordinate, and assist in the design and engineering of emergency telecommunications systems, including but not limited to the 911 emergency telephone number program, Emergency Medical Services, and other emergency telecommunications services.
 - j. Perform frequency coordination and management for State agencies and local governments, including all public safety radio service frequencies, in accordance with the rules and regulations of the Federal Communications Commission or any successor federal agency.
 - k. Advise all State agencies on telecommunications management planning and related matters and provide through the State Personnel Training Center or the State Information Processing Services training to users within State agencies in telecommunications technology and systems.

- l. Assist and coordinate the development of policies and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications systems; and base such policies and plans on current information about State telecommunications activities in relation to the full range of emerging technologies.
- m. Work cooperatively with the North Carolina Agency for Public Telecommunications in furthering the purpose of this subdivision.

The provisions of this subdivision shall not apply to the Criminal Information Division of the Department of Justice or to the Judicial Information System in the Judicial Department.

- (2) Provide cities, counties, and other local governmental units with access to a central telecommunications system or service established under subdivision ~~(14)~~(1) of this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies.
- (3) Establish switched broadband telecommunications services and permit in addition to State agencies, cities, counties, and other local government units, the following organizations and entities to share on a not-for-profit basis:
 - a. Nonprofit educational institutions;
 - b. ~~The Microelectronics Center of North Carolina~~ ("MCNC"); MCNC;
 - c. Research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities relate to health care or education in North Carolina;
 - d. Agencies of the United States government operating in North Carolina for use only in connection with activities that relate to health care or education in North Carolina; or
 - e. Hospitals, clinics, and other health care facilities for use only in connection with activities that relate to health care or education in North Carolina.

Provided, however, that sharing of the switched broadband telecommunications services by State agencies with entities or organizations in the categories set forth herein shall not cause the State, the ~~Office of State Controller, Department of Commerce~~, or the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6. Nor shall the State, the ~~Office of State Controller, Department of Commerce~~, or the MCNC engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the federal Communications Act of 1934, 47 U.S.C. § 153(h). Provided further, authority to share the switched broadband telecommunications services with the non-State agencies set forth

above in subdivision ~~(16)a. through subdivision (16)e.~~ a. through e. of this subdivision shall terminate one year from the effective date of a tariff that makes the broadband services available to any customer.

"§ 143B-472.43. Information Highway Grants Advisory Council.

(a) The Information Highway Grants Advisory Council is created within the ~~Office of the State Controller.~~ Department of Commerce. The Council shall consist of 18 members as follows:

- (1) Five members to be appointed by the Governor.
- (2) Four members to be appointed by the Speaker of the House of Representatives, at least one of whom shall be a public member.
- (3) Four members to be appointed by the President Pro Tempore of the Senate, at least one of whom shall be a public member.
- (4) One representative from the Department of Public Instruction to be designated by the Superintendent of Public Instruction.
- (5) One representative from the Department of Community Colleges to be designated by the President of the Community College System.
- (6) One representative from The University of North Carolina to be designated by the President of The University of North Carolina.
- (7) One representative from the ~~Office of the State Controller,~~ to be designated by the State Controller. ~~Department of Commerce,~~ to be designated by the Secretary of Commerce.
- (8) One representative from the North Carolina School of Science and Mathematics, to designated by the Board of Trustees.

Members of the Council shall be appointed by September 1, 1994, and shall serve two-year terms. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from among the members of the General Assembly they appoint to the Council. Vacancies on the Council shall be filled in the same manner as the original appointment.

The members of the Council shall not receive compensation but may receive subsistence and travel in accordance with G.S. 120-3.1, G.S. 138-5, and G.S. 138-6 as appropriate.

(b) The Information Highway Grants Advisory Council shall meet as often as needed to transact its business. The first meeting of the Council shall be called by the cochairs. A majority of the members of the Council shall constitute a quorum. The ~~Office of the State Controller~~ Department of Commerce shall provide staff and space to the Council.

(c) The Information Highway Grants Advisory Council shall advise the Governor, the General Assembly, and ~~Office of the State Controller~~ Department of Commerce on matters pertaining to the North Carolina Information Highway. The Information Highway Grants Advisory Council shall, by September 30, 1994, develop criteria for evaluating grant applications under this section. The Information Highway Grants Advisory Council shall evaluate the grant applications and make recommendations to the State Controller regarding grant recipients by December 1, 1994. The State Controller shall not award grants before December 15, 1994. The State

~~Controller~~ Secretary of Commerce shall notify the Information Highway Grants Advisory Council as to whom the intended grant recipients are 15 days prior to awarding the grants.

"§ 143B-472.44. State Information Processing Services.

With respect to all executive departments and agencies of State government, except the Department of Justice and The University of North Carolina, the ~~Office of State Controller~~ Department of Commerce shall have the following powers and duties:

- (1) To establish and operate information resource centers and services to serve two or more departments on a cost-sharing basis, if the Information Resources Management Commission decides it is advisable from the standpoint of efficiency and economy to establish these centers and services;
- (2) With the approval of the Information Resources Management Commission, to charge each department for which services are performed its proportionate part of the cost of maintaining and operating the shared centers and services;
- (3) With the approval of the Information Resources Management Commission, to require any department served to transfer to the ~~Office of the State Controller~~ Department of Commerce ownership, custody, or control of information processing equipment, supplies, and positions required by the shared centers and services;
- (4) With the approval of the Information Resources Management Commission, to adopt reasonable rules for the efficient and economical management and operation of the shared centers, services, and the integrated State telecommunications network;
- (5) With the approval of the Information Resources Management Commission, to adopt plans, policies, procedures, and rules for the acquisition, management, and use of information technology resources in the departments affected by this subdivision to facilitate more efficient and economic use of information technology in these departments; and
- (6) To develop and promote training programs to efficiently implement, use, and manage information technology resources.
- (7) To provide cities, counties, and other local governmental units with access to State Information Processing Services information resource centers and services as authorized in this section for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

The Department of Revenue is authorized to deviate from this subsection's requirements that departments or agencies consolidate information processing functions on equipment owned, controlled or under custody of the State Information Processing Services. All deviations from this subsection's requirements shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission and shall be consistent with available funding. The

Department of Revenue is authorized to adopt and shall adopt plans, policies, procedures, requirements and rules for the acquisition, management, and use of information processing equipment, information processing programs, data communications capabilities, and information systems personnel in the Department of Revenue. If the plans, policies, procedures, requirements, rules, or standards adopted by the Department of Revenue deviate from the policies, procedures, or guidelines adopted by the State Information Processing Services or the Information Resources Management Commission, those deviations shall be allowed and shall be reported in writing within 15 days by the Department of Revenue to the Information Resources Management Commission. The Department of Revenue and the State Information Processing Services shall develop data communications capabilities between the two computer centers utilizing the North Carolina Integrated Network, subject to a security review by the Secretary of Revenue.

The Department of Revenue shall prepare a plan to allow for substantial recovery and operation of major, critical computer applications. The plan shall include the names of the computer programs, databases, and data communications capabilities, identify the maximum amount of outage that can occur prior to the initiation of the plan and resumption of operation. The plan shall be consistent with commonly accepted practices for disaster recovery in the information processing industry. The plan shall be tested as soon as practical, but not later than six months, after the establishment of the Department of Revenue information processing capability.

No data of a confidential nature, as defined in the General Statutes or federal law, may be entered into or processed through any cost-sharing information resource center or network established under this subdivision until safeguards for the data's security satisfactory to the department head and the ~~State Controller~~ Secretary of Commerce have been designed and installed and are fully operational. Nothing in this subsection may be construed to prescribe what programs to satisfy a department's objectives are to be undertaken, nor to remove from the control and administration of the departments the responsibility for program efforts, regardless whether these efforts are specifically required by statute or are administered under the general program authority and responsibility of the department. This subdivision does not affect the provisions of G.S. 147-64.6, ~~G.S. 147-64.7~~, or ~~G.S. 143B-426.39(14)~~. ~~143B-472.42(1)~~. Notwithstanding any other provision of law, the ~~Office of the State Controller~~ Department of Commerce shall provide information technology services on a cost-sharing basis to the General Assembly and its agencies as requested by the Legislative Services Commission."

Section 7. G.S. 115C-102.5(b)(4) reads as rewritten:

"(4) ~~The Deputy Controller for the Information Resources Management Commission in the Office of the State Controller~~ A person with management responsibility concerning information technology related State Government functions, designated by the Secretary of Commerce;"

Section 8. G.S. 20-123(57) reads as rewritten:

"(57) The Information Resource Management Commission, as established by G.S. ~~143B-426.21~~. ~~143B-472.41~~."

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:30 p.m. this 4th day of June, 1997