**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA CHIEF INFORMATION OFFICER RESTRUCTURING ACT” BY ADDING ARTICLE 6 TO CHAPTER 3, TITLE 1, TO ESTABLISH THE DEPARTMENT OF THE STATE CHIEF INFORMATION OFFICER TO BE HEADED BY THE STATE CHIEF INFORMATION OFFICER WHO IS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT; AND TO REPEAL SECTION 1‑11‑430 RELATING TO THE POWERS OF THE STATE BUDGET AND CONTROL BOARD TO GOVERN THE USE OF TELECOMMUNICATION SYSTEMS.

Whereas, it is imperative that South Carolina have a strategic plan for technology in order to compete in a changing economy, both in the United States and worldwide; and

Whereas, the need for technology for communication in business and in our personal lives, in a knowledge‑based economy, it is imperative for South Carolina to have a strategic plan for technology; and

Whereas, with proper measures and programs in place, South Carolina can improve the competitiveness of technology that operates in our State and will attract and entice other businesses, entrepreneurs, and technology industries; and

Whereas, encouraging the advancement of technology will not only attract new industries, but will work to coordinate and make government agencies more efficient; and

Whereas, nurturing industries in the information technology sector will increase the wealth of citizens of South Carolina through employment opportunities and greater income by expanding current industries and the development of new industries; and

Whereas, the importance of adoption of sound public policy in technology could and should work hand in hand with commerce, and therefore it is logical that there should be a Cabinet seat for the head of technology. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “South Carolina Chief Information Officer Restructuring Act”.

SECTION 2. Chapter 3, Title 1 of the 1976 Code is amended by adding:

“Article 6

State Chief Information Officer

Section 1‑3‑310. It is the intent of the General Assembly to create an instrumentality that provides leadership and direction for the use of information technology within government in South Carolina. The General Assembly recognizes the critical role information technology plays in providing cost‑effective and efficient services to the citizens of this State. The General Assembly envisions an enterprise information system that provides an easily accessible, reliable, and accurate information infrastructure to enhance both the quality and delivery of services.

Section 1‑3‑320. There is created the Department of the State Chief Information Officer. The department is headed by the State Chief Information Officer appointed by the Governor with the advice and consent of the Senate. The State Chief Information Officer serves at the pleasure of the Governor.

Section 1‑3‑330. The department may be organized in a manner the State Chief Information Officer considers most appropriate to carry out various duties, responsibilities, and authorities assigned to the department.

Section 1‑3‑340. As used in this article:

(1) ‘Council’ means the South Carolina Information Technology Council as established in this article.

(2) ‘Department’ means the Department of the State Chief Information Officer.

(3) ‘Governmental body’ means a state government department, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch. Governmental body does not include a public institution of higher learning as defined in Section 59‑103‑5, the legislative branch or the judicial branch.

(4) ‘Information technology’ means electronic data processing goods and services, telecommunications goods and services, information security goods and services, information management, microprocessors, software, information processing, office systems, any services related to these, and consulting or other services for design or redesign of information technology supporting business processes.

(5) ‘Political subdivision’ means the counties, municipalities, school districts, special purpose districts, special service districts, commissioners of public works, and any other local authority, board, commission, agency, department, or political body.

(6) ‘Telecommunications’ means the provision, transmission, conveyance, or routing of voice, data, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, or other medium or method now in existence or devised after this article takes effect. Telecommunications includes, but is not limited to, local telephone services, toll telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services, channel services, Internet protocol telephony, cable services, and mobile telecommunications services, and includes all facilities and equipment performing these functions.

Section 1‑3‑350. (A) There is created the South Carolina Information Technology Council.

(B) The council consists of the following twelve members:

(1) the Chief Justice of the South Carolina Supreme Court;

(2) one member of the South Carolina Senate appointed by the President Pro Tempore of the Senate;

(3) one member of the South Carolina House of Representatives appointed by the Speaker of the House of Representatives;

(4) two cabinet agency directors appointed by the Governor;

(5) one noncabinet agency director appointed by the Governor upon recommendation of the President of the State Agency Directors Organization;

(6) one representative of county government appointed by the Governor upon recommendation of the South Carolina Association of Counties;

(7) one representative of municipal government appointed by the Governor upon recommendation of the Municipal Association of South Carolina;

(8) one citizen member from the private sector appointed by the Governor;

(9) one citizen member from the private sector appointed by the President Pro Tempore of the Senate;

(10) one citizen member from the private sector appointed by the Speaker of the House of Representatives; and

(11) the State Chief Information Officer.

(C) The State Chief Information Officer serves as chairman of the council.

(D) Appointed members serve at the pleasure of the appointing authority. Members who serve by virtue of an office serve on the council while they hold that office.

(E) Members serve without compensation, but citizen members of the council are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business of the council.

(F) The powers and duties of the council include the following:

(1) review and approve the coordinated statewide strategic plan for information technology prepared by the department;

(2) review and approve statewide strategic information technology directions, standards, and enterprise architecture prepared by the department;

(3) approve the criteria developed by the department for the review and approval of information technology plans and information technology projects of governmental bodies;

(4) review and approve the procedures developed by the department for the allocation and distribution of funds from the Information Technology Innovation Fund;

(5) upon recommendation of the department, the council may grant the department and governmental bodies exemptions from the requirements in this article;

(6) upon recommendation of the department, the council may terminate any information technology project of a governmental body or governmental bodies; and

(7) upon request of a governmental body, the council may review decisions of the department concerning whether the information technology plans and projects of the governmental body conform to statewide information technology plans, strategies, and standards.

Section 1‑3‑360. (A) The State Information Technology Director’s Committee is created to advise the State Chief Information Officer on matters relating to the development and implementation of information technology standards, policies, and procedures and facilitate the exchange of information among the information technology directors of governmental bodies and political subdivisions. The committee includes representatives from governmental bodies and political subdivisions and must be chosen in a manner and number determined by the State Chief Information Officer.

(B) The State Chief Information Officer may establish other standing or ad hoc advisory committees to provide assistance relating to any other matters within the department’s authority.

(C) Members of the advisory committees appointed pursuant to subsections (A) and (B) are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business of the committees. Members who are full‑time state employees may not receive per diem.

Section 1‑3‑370. The powers and duties of the department include the following:

(1) develop for approval of the council a coordinated statewide strategic plan for information technology;

(2) develop for approval of the council statewide strategic information technology directions, standards, and enterprise architecture. These directions, standards, and architecture must include, but are not limited to, information related to the privacy and confidentiality of data collected and stored by governmental bodies, website accessibility, and assistive technologies. The department shall implement necessary management processes to assure that governmental bodies fully comply with these directions, standards, and architecture;

(3) develop policies and procedures for the effective management of information technology investments throughout their entire life cycles, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement;

(4) evaluate the information technology of governmental bodies and combine information technology and related resources when the department determines that it is advisable from the standpoint of efficiency and cost effectiveness;

(5) plan and forecast future needs for information technology and conduct studies and surveys of organizational structures and best management practices of information technology systems and procedures;

(6) evaluate the information technology plans and projects of governmental bodies to ensure that the plans and projects are consistent with statewide plans, strategies, and standards, including alignment with the state’s business goals, investments, and other risk management policies;

(7) assist the Secretary of Commerce in the development of information technology related industries in the State and the promotion of economic development initiatives based on information technology;

(8) assist governmental bodies in the development of guidelines concerning the qualifications and training requirements of information technology related personnel;

(9) collaborate with political subdivisions in the development of information technology plans that are consistent with statewide plans, strategies, and standards, and encourage political subdivisions to pursue information technology investments that are compatible with the state’s information technology infrastructure;

(10) secure all telecommunications equipment and services for governmental bodies under terms the department considers suitable and coordinate the supply of the equipment and services for use by governmental bodies;

(11) operate and manage a state consolidated data center, and other appropriate data centers, to be used by governmental bodies and political subdivisions under terms and conditions established by the department;

(12) develop information technology applications and services for entities requesting them;

(13) administer information technology related procurements and contracting activities for governmental bodies in accordance with the South Carolina Consolidated Procurement Code;

(14) enter into agreements and contracts with governmental bodies, political subdivisions, and other entities for goods and services. The department may establish fee schedules to be collected from governmental bodies, political subdivisions, and other entities for services rendered and goods provided;

(15) hire necessary personnel and assign them duties and powers as the department prescribes; and

(16) exercise and perform other powers and duties as granted to it, imposed upon it by law or necessary to carry out the purposes in this article.

Section 1‑3‑380. The department has the following additional powers and duties relating to planning and the management of information technology projects:

(1) oversee the development of any statewide and multiagency information technology enterprise projects;

(2) develop for the council an approval process for the information technology plans of governmental bodies. Each governmental body is required to develop an information technology plan and submit the plan to the department for approval. The department may reject or require modification to those plans that do not conform to statewide information technology plans, strategies, and standards;

(3) establish a methodology and process for conceiving, planning, scheduling, procuring, and providing appropriate oversight for information technology projects;

(4) develop for the council an approval process for information technology projects proposed by governmental bodies to ensure that all of these projects conform to statewide information technology plans, strategies, and standards, the information technology plan of the governmental body, and the project management methodology. All information technology projects proposed by governmental bodies that exceed an amount established by the council, initially set at four hundred thousand dollars but subject to adjustment by the council, are subject to department approval. Governmental bodies may not artificially divide these projects so as to avoid departmental approval;

(5) monitor information technology projects approved by the department. The department may modify and suspend any information technology project that is not in compliance with statewide information technology plans, strategies, and standards or that has not met the performance measures agreed to by the department and the sponsoring governmental body. The council may terminate projects upon recommendation of the department;

(6) establish minimum qualifications and training standards for project managers; and

(7) establish an information clearinghouse that identifies best practices and new developments and contains detailed information regarding the state’s previous experiences with the development of information technology projects.

Section 1‑3‑390. (A) The department has the following additional powers and duties relating to telecommunications:

(1) coordinate the various telecommunications facilities and services used by governmental bodies;

(2) acquire, lease, construct, or organize facilities and equipment as necessary to deliver comprehensive telecommunications services in an efficient and cost‑effective manner, and maintain these facilities and equipment;

(3) provide technical assistance to governmental bodies in areas such as:

(a) performing systems development services, including design, application programming, and maintenance;

(b) conducting research and sponsoring demonstration projects pertaining to all facets of telecommunications; and

(c) planning and forecasting for future needs in telecommunications services.

(B) If requested by a political subdivision, the department, at its sole option, may supply telecommunications goods and services to the political subdivision under terms and conditions established by the department.

(C) A governmental body may not enter into an agreement or renew an existing agreement for telecommunications services or equipment unless approved by the department.

Section 1‑3‑400. The department has the following additional powers and duties relating to information technology procurements:

(1) ensure that information technology procurements are conducted in a manner consistent with the South Carolina Consolidated Procurement Code and related regulations;

(2) ensure that information technology procurements conform to statewide information technology plans, strategies, and standards. The department may reject any information technology procurement that does not conform to statewide information technology plans, strategies, and standards;

(3) recommend to the council categories of information technology procurement which must be exempted from the requirements of the South Carolina Consolidated Procurement Code and related regulations;

(4) enter into cooperative purchasing agreements with political subdivisions for the procurement of information technology and allow political subdivisions to participate in the department’s procurement of information technology under terms and conditions established by the department; and

(5) participate in, sponsor, conduct, or administer cooperative purchasing agreements for the procurement of information technology.

Section 1‑3‑410. The department has the following additional powers and duties relating to the security of government information and infrastructure:

(1) to protect the state’s critical information technology infrastructure and associated data systems if there is a major disaster, whether natural or otherwise, and to allow the services to the citizens of this State to continue if there is such an event. The department shall develop a Critical Information Technology Infrastructure Protection Plan which devises policies and procedures to provide for the confidentiality, integrity, and availability of, and to allow for alternative and immediate online access to data and information systems necessary to provide critical information to citizens and ensure the protection of state employees as they carry out their disaster‑related duties. All governmental bodies and political subdivisions of this State are directed to assist the department in the collection of data required for this plan;

(2) to oversee, plan, and coordinate periodic security audits of governmental bodies regarding the protection of government information and information technology infrastructure. These security audits may include, but are not limited to, on‑site audits as well as reviews of all written security procedures. The department may conduct the security audits or contract with a private firm or firms to conduct these security audits. Governmental bodies subject to a security audit shall cooperate fully with the entity designated to perform such audits.

Section 1‑3‑420. (A) The General Assembly shall appropriate funds sufficient for the development, implementation, and ongoing operation of the department’s information technology planning, project management, and security responsibilities. The General Assembly also shall appropriate funds necessary to carry out all other duties and responsibilities assigned to the department that are not reimbursable through a fee‑for‑service methodology. The department is authorized to provide to and receive from other governmental bodies, political subdivisions, and other entities goods and services. The department may charge and pay governmental bodies, political subdivisions, and other entities for the goods and services, the revenue from which must be deposited in the Office of the State Treasurer in a special account and expended only for the costs of providing the goods and services, and these funds may be retained and expended for the same purposes.

(B) There is created an Information Technology Innovation Fund. This fund must provide incentives to governmental bodies to implement enterprise initiatives and electronic government projects. Use of the fund must encourage governmental bodies to pursue innovative and creative approaches using technology that provides needed citizens services more cost effectively and efficiently. The fund may not be used to replace or offset appropriations for on‑going technology expenditures and operations. The fund consists of those monies appropriated through the state budget process, grants, gifts, and other donations received by the State or otherwise available. The department, with the approval of the council, is responsible for developing appropriate procedures for the allocation and distribution of these funds.

Section 1‑3‑430. The Governor, in his annual State of the State Address, shall include a report to the citizens of this State which includes the strategic goals of his administration regarding information technology and his accomplishments in that area.”

SECTION 3. Section 1‑11‑430 of the 1976 Code is repealed.

SECTION 4. This act takes effect upon approval by the Governor.

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