

SENATE BILL NO. 188

INTRODUCED BY K. VAN DYK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND ELIMINATING BOARDS AND COUNCILS WITHIN
5 THE DEPARTMENT OF ADMINISTRATION; REVISING THE NAME, MEMBERSHIP, AND DUTIES OF THE
6 INFORMATION TECHNOLOGY BOARD; ELIMINATING THE BOARD OF COUNTY PRINTING, THE
7 ELECTRONIC GOVERNMENT ADVISORY COUNCIL, AND THE LAND INFORMATION ADVISORY COUNCIL;
8 AMENDING SECTIONS 2-6-503, 2-15-1021, 2-17-506, 2-17-512, 2-17-513, 2-17-514, 2-17-515, 2-17-521,
9 2-17-532, 2-17-1102, 18-7-401, 18-7-404, 18-7-405, 90-1-403, AND 90-1-404, MCA; REPEALING SECTIONS
10 2-15-1026, 2-17-1105, 18-7-402, 18-7-403, 90-1-405, AND 90-1-406, MCA; AND PROVIDING AN IMMEDIATE
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 **Section 1.** Section 2-6-503, MCA, is amended to read:

16 **"2-6-503. Extensions.** The chief information officer provided for in 2-17-511 may grant an extension to
17 any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2,
18 chapter 17, part 5. The chief information officer shall inform the information technology ~~board~~ advisory council,
19 the office of budget and program planning, and the legislative finance committee of all extensions that are granted
20 and of the rationale for granting the extensions. The chief information officer shall maintain written documentation
21 that identifies the terms and conditions of each extension and the rationale for the extension."
22

23 **Section 2.** Section 2-15-1021, MCA, is amended to read:

24 **"2-15-1021. Information technology ~~board~~ advisory council -- membership -- qualifications --**
25 **vacancies -- compensation.** (1) There is an information technology ~~board~~ advisory council. The ~~board~~ advisory
26 council consists of ~~19~~ nine members who are appointed by the governor, as provided in subsection (2), and the
27 following three members as follows:

28 (a) the director of the department of administration or a designee of the director, who serves as the
29 presiding officer of the ~~board~~ advisory council;

30 ~~(b) the chief information officer provided for in 2-17-511;~~

- 1 **(b) the supreme court administrator, provided for in 3-1-701; and**
 2 **(c) the executive director of the legislative services division.**
 3 ~~(c) the director of the office of budget and program planning;~~
 4 ~~(d) six members who are directors of state agencies and who are appointed by the governor;~~
 5 ~~(e) two members representing local government, appointed by the governor;~~
 6 ~~(f) one member representing the public service commission, appointed by the public service commission;~~
 7 ~~(g) one member representing the private sector, appointed by the governor;~~
 8 ~~(h) one member of the house of representatives, appointed by the speaker of the house of~~
 9 ~~representatives;~~
 10 ~~(i) one member of the senate, appointed by the president of the senate;~~
 11 ~~(j) one member representing the legislative branch, appointed by the legislative branch computer system~~
 12 ~~planning council;~~
 13 ~~(k) one member representing the judicial branch, appointed by the chief justice of the supreme court;~~
 14 ~~(l) one member representing the university system, appointed by the board of regents; and~~
 15 ~~(m) one member representing K-12 education, appointed by the superintendent of public instruction~~
 16 **(2) The governor shall appoint the following members:**
 17 **(a) one member representing Indian tribal interests;**
 18 **(b) one member representing municipal government;**
 19 **(c) one member representing county government;**
 20 **(d) one geographic information system professional;**
 21 **(e) two representatives of a business or nonprofit entity;**
 22 **(f) two public members; and**
 23 **(g) one representative of an executive branch agency.**
 24 ~~(2)(3)~~ **(3)** Appointments must be made without regard to political affiliation and must be made solely for the
 25 wise management of the information technology resources used by the state. **Initial appointments must be for**
 26 **terms of 1 to 3 years, as determined by the governor, to create staggered terms. Subsequent appointments must**
 27 **be for 3 years.**
 28 ~~(3)(4)~~ **(4)** A vacancy occurring on the ~~board~~ **advisory council** must be filled by the appointing authority in the
 29 same manner as the original appointment.
 30 ~~(4)(5)~~ **(5)** The ~~board~~ **advisory council** shall function in an advisory capacity as defined in 2-15-102.

1 ~~(5)~~(6) Members of the ~~board~~ advisory council must be reimbursed and compensated in the same manner
 2 as members of quasi-judicial boards under 2-15-124(7), ~~except that legislative members are reimbursed and~~
 3 ~~compensated as provided in 5-2-302."~~

4

5 **Section 3.** Section 2-17-506, MCA, is amended to read:

6 **"2-17-506. Definitions.** In this part, unless the context requires otherwise, the following definitions apply:

7 (1) ~~"Board"~~ "Advisory council" means the information technology ~~board~~ advisory council established in
 8 2-15-1021.

9 (2) "Central computer center" means any stand-alone or shared computer and associated equipment,
 10 software, facilities, and services administered by the department for use by state agencies.

11 (3) "Chief information officer" means a person appointed by the director of the department to carry out
 12 the duties and responsibilities of the department relating to information technology.

13 (4) "Data" means any information stored on information technology resources.

14 (5) "Department" means the department of administration established in 2-15-1001.

15 (6) "Electronic access system" means a system capable of making data accessible by means of an
 16 information technology facility in a voice, video, or electronic data form, including but not limited to the internet.

17 (7) "Information technology" means hardware, software, and associated services and infrastructure used
 18 to store or transmit information in any form, including voice, video, and electronic data.

19 (8) "State agency" means any entity of the executive branch, including the university system.

20 (9) "Statewide telecommunications network" means any telecommunications facilities, circuits,
 21 equipment, software, and associated contracted services administered by the department for the transmission
 22 of voice, video, or electronic data from one device to another."

23

24 **Section 4.** Section 2-17-512, MCA, is amended to read:

25 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
 26 planning and program responsibilities for information technology for state government, except the national guard.

27 The department:

28 (a) shall encourage and foster the development of new and innovative information technology within state
 29 government;

30 (b) shall promote, coordinate, and approve the development and sharing of shared information

1 technology application software, management systems, and information that provide similar functions for multiple
2 state agencies;

3 (c) shall cooperate with the office of economic development to promote economic development initiatives
4 based on information technology;

5 (d) shall establish and enforce a state strategic information technology plan as provided for in 2-17-521;

6 (e) shall establish and enforce statewide information technology policies and standards;

7 (f) shall review and approve state agency information technology plans provided for in 2-17-523;

8 (g) shall coordinate with the office of budget and program planning to evaluate budget requests that
9 include information technology resources. The department shall make recommendations to the office of budget
10 and program planning for the approval or disapproval of information technology budget requests, including an
11 estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or
12 capitalized, based on state accounting policy established by the department. An unfavorable recommendation
13 must be based on a determination that the request is not provided for in the approved agency information
14 technology plan provided for in 2-17-523.

15 (h) shall staff the information technology ~~board~~ advisory council provided for in 2-15-1021;

16 (i) shall fund the administrative costs of the information technology ~~board~~ advisory council provided for
17 in 2-15-1021;

18 (j) shall review the use of information technology resources for all state agencies;

19 (k) shall review and approve state agency specifications and procurement methods for the acquisition
20 of information technology resources;

21 (l) shall review, approve, and sign all state agency contracts and shall review and approve other formal
22 agreements for information technology resources provided by the private sector and other government entities;

23 (m) shall operate and maintain a central computer center for the use of state government, political
24 subdivisions, and other participating entities under terms and conditions established by the department;

25 (n) shall operate and maintain a statewide telecommunications network for the use of state government,
26 political subdivisions, and other participating entities under terms and conditions established by the department;

27 (o) shall ensure that the statewide telecommunications network is properly maintained. The department
28 may establish a centralized maintenance program for the statewide telecommunications network.

29 (p) shall coordinate public safety communications on behalf of all state agencies as provided for in
30 2-17-541 through 2-17-543;

- 1 (q) shall manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;
- 2 (r) shall provide electronic access to information and services of the state as provided for in 2-17-532;
- 3 (s) shall provide assistance to the legislature, the judiciary, the governor, and state agencies relative to
4 state and interstate information technology matters;
- 5 (t) shall establish rates and other charges for services provided by the department;
- 6 (u) must accept federal funds granted by congress or by executive order and gifts, grants, and donations
7 for any purpose of this section;
- 8 (v) shall dispose of personal property owned by it in a manner provided by law when, in the judgment
9 of the department, the disposal best promotes the purposes for which the department is established;
- 10 (w) shall implement this part and all other laws for the use of information technology in state government;
- 11 (x) shall report to the appropriate interim committee on a regular basis and to the legislature as provided
12 in 5-11-210 on the information technology activities of the department; and
- 13 (y) shall represent the state with public and private entities on matters of information technology.
- 14 (2) If it is in the state's best interest, the department may contract with qualified private organizations,
15 foundations, or individuals to carry out the purposes of this section.
- 16 (3) The director of the department shall appoint the chief information officer to assist in carrying out the
17 department's information technology duties."

- 18
- 19 **Section 5.** Section 2-17-513, MCA, is amended to read:
- 20 **"2-17-513. Duties of board advisory council.** The ~~board~~ advisory council shall:
- 21 (1) provide a forum to:
- 22 ~~— (a) guide state agencies, the legislative branch, the judicial branch, and local governments~~ government
23 in the development and deployment of ~~intergovernmental~~ information technology resources;
- 24 ~~(b) share information among state agencies, local governments, and federal agencies regarding the~~
25 ~~development of information technology resources;~~
- 26 (2) advise the department:
- 27 (a) in the development of cooperative contracts for the purchase of information technology resources;
- 28 (b) with regard to the creation, management, and administration of electronic government services and
29 information on the internet, including the administration of any electronic government services contract;
- 30 (c) on the priority of government services to be provided electronically by assisting the department in

1 identifying, evaluating, and prioritizing potential electronic government services; and
2 (d) on convenience fees, allowed under 2-17-1103(2), for any electronic government service;
3 (3) review and advise the department on:
4 (a) statewide information technology standards and policies;
5 (b) the state strategic information technology plan;
6 (c) major information technology budget requests;
7 (d) rates and other charges for services established by the department as provided in 2-17-512(1)(t);
8 (e) financial reports, management reports, or other electronic government services data requested by
9 the department;
10 ~~(e)~~(f) requests for exceptions as provided for in 2-17-515;
11 ~~(f)~~(g) notification of proposed exemptions by the university system and office of public instruction as
12 provided for in 2-17-516;
13 ~~(g)~~(h) action taken by the department as provided in 2-17-514(1) for any activity that is not in compliance
14 with this part;
15 ~~(h)~~(i) transfer of information technology funds, resources, and employees as provided for in 2-17-531;
16 and
17 ~~(i)~~(j) the implementation of major information technology projects ~~and~~ The advisory council shall advise
18 the respective governing authority of any issue of concern to the ~~board~~ advisory council relating to implementation
19 of the project;
20 (4) upon request of the governor or the legislature, work with the department to prepare reports related
21 to the growth, performance, and use of electronic government services and other measurements that the advisory
22 council considers necessary to implement and enhance the functioning of electronic government services;
23 (5) serve as a central coordination point for electronic government services provided by the department
24 or other state agencies;
25 ~~(4)~~(6) study state government's present and future information technology needs and advise the
26 department on the use of emerging technology in state government; ~~and~~
27 ~~(5)~~(7) request information and reports that it considers necessary from any entity using or having access
28 to the statewide telecommunications network or central computer center; and
29 (8) coordinate any other activity in furtherance of electronic government services as requested by the
30 governor or the legislature."

1

2 **Section 6.** Section 2-17-514, MCA, is amended to read:

3 **"2-17-514. Department -- enforcement responsibilities.** (1) If the department determines that an
4 agency is not in compliance with the state strategic information technology plan provided for in 2-17-521, the
5 agency information technology plan provided for in 2-17-523, or the statewide information technology policies and
6 standards provided for in 2-17-512, the department may cancel or modify any contract, project, or activity that
7 is not in compliance.

8 (2) Prior to taking action provided for in subsection (1), the department shall review with the ~~board~~
9 advisory council any activities that are not in compliance.

10 (3) Any contract entered into by an agency that includes information technology resources must include
11 language developed by the department that references the department's enforcement responsibilities provided
12 for in subsection (1). A contract that does not contain the required language is considered to be in violation of
13 state law and is voidable pursuant to subsection (1). The language developed by the department may not be
14 varied pursuant to 18-4-224."

15

16 **Section 7.** Section 2-17-515, MCA, is amended to read:

17 **"2-17-515. Granting exceptions to state agencies.** Subject to 2-17-516, the department may grant
18 exceptions to any policy, standard, or other requirement of this part if it is in the best interests of the state of
19 Montana. The department shall inform the ~~board~~ advisory council, the office of budget and program planning, and
20 the legislative finance committee of all exceptions that are granted and of the rationale for granting the exceptions.
21 The department shall maintain written documentation that identifies the terms and conditions of the exception and
22 the rationale for the exception."

23

24 **Section 8.** Section 2-17-521, MCA, is amended to read:

25 **"2-17-521. State strategic information technology plan -- biennial report.** (1) The department shall
26 prepare a state strategic information technology plan. The department shall seek the advice of the ~~board~~ advisory
27 council in the development of the plan.

28 (2) The plan must:

29 (a) reflect the policies as set forth in 2-17-505 and be in accordance with statewide standards and
30 policies established by the department;

1 (b) establish the statewide mission, goals, and objectives for the use of information technology, including
2 goals for electronic access to government records, information, and services; and

3 (c) establish the strategic direction for how state agencies will develop and use information technology
4 resources to provide state government services.

5 (3) The department shall update the plan as necessary. The plan and any updates must be distributed
6 as provided in 2-17-522.

7 (4) The department shall prepare a biennial report on information technology based on agency
8 information technology plans and performance reports required under 2-17-524 and other information considered
9 appropriate by the department. The biennial report must include:

10 (a) an analysis of the state's information technology infrastructure, including its value, condition, and
11 capacity;

12 (b) an evaluation of performance relating to information technology;

13 (c) an assessment of progress made toward implementing the state strategic information technology
14 plan;

15 (d) an inventory of state information services, equipment, and proprietary software;

16 (e) agency budget requests for major projects; and

17 (f) other information as determined by the department or requested by the governor or the legislature."
18

19 **Section 9.** Section 2-17-532, MCA, is amended to read:

20 **"2-17-532. Establishment.** (1) The department shall establish and maintain appropriate electronic
21 access systems for state agencies to use to provide direct electronic access to information and services by
22 citizens, businesses, and other government entities. State agencies shall establish electronic access systems
23 that meet minimum technical standards established by the department. Agencies involved in communicating
24 information or providing services to the public shall use these systems to provide appropriate information to the
25 public, including but not limited to:

26 (a) descriptions of agency functions, including contact information;

27 (b) agency program services provided to citizens, businesses, and other government entities;

28 (c) environmental assessments;

29 (d) rulemaking notices;

30 (e) ~~board~~ vacancy notices as required by 2-15-201;

1 (f) agency reports mandated by statute;

2 (g) parks reports required by 23-1-110;

3 (h) requests for bids or proposals; and

4 (i) public meeting notices and agendas.

5 (2) The purpose of electronic access systems is to encourage the practice of providing for direct citizen,
6 business, and other government entity access to state computerized information and services."

7

8 **Section 10.** Section 2-17-1102, MCA, is amended to read:

9 **"2-17-1102. Definitions.** As used in this part, unless the context requires otherwise, the following
10 definitions apply:

11 (1) "Advisory council" means the ~~electronic government advisory council established in 2-17-1105~~
12 information technology advisory council established in 2-15-1021.

13 (2) "Convenience fee" means a fee charged to recover the costs of providing electronic government
14 services.

15 (3) "Costs" means the overall costs that the department may incur to provide electronic government
16 services, including the costs of contracts entered into with private entities to assist in providing electronic
17 government services.

18 (4) "Department" means the department of administration provided for in 2-15-1001.

19 (5) "Infrastructure" means the underlying technology necessary to provide electronic government
20 services."

21

22 **Section 11.** Section 18-7-401, MCA, is amended to read:

23 **"18-7-401. Purpose of part.** The purpose of this part is to ~~provide:~~

24 (1) ~~for allow the board of county printing department~~ to set maximum prices that may be charged for
25 county legal advertising and to adopt printing standards for county legal advertising; and

26 (2) provide for the purchase of county printed forms and materials."

27

28 **Section 12.** Section 18-7-404, MCA, is amended to read:

29 **"18-7-404. Establishment of maximum prices.** (1) The ~~board~~ department shall adopt, by rule, and
30 publish a schedule of maximum prices to be charged for county legal advertising.

1 ~~(2)~~ The board shall conduct hearings when required to determine maximum rates for county legal
 2 advertising. Notice of the hearing must be mailed to the Montana association of counties and the Montana
 3 newspaper association.

4 ~~(3)~~ The board shall deliver, free of charge, to each board of county commissioners in this state a copy
 5 of every schedule of maximum prices adopted by the board within 30 days of its publication, together with a notice
 6 of the date fixed by the board when the prices will be effective.

7 ~~(4)~~(2) The county commissioners shall require each establishment that prints county legal advertising
 8 to verify that:

9 (a) the legal advertisement was published on the dates ordered by the county and in the style set by the
 10 ~~board~~ department; and

11 (b) the price was not in excess of the maximum price set by the ~~board~~ department.

12 ~~(5)~~(3) The ~~board~~ department may not establish maximum prices for printed county forms."

14 **Section 13.** Section 18-7-405, MCA, is amended to read:

15 **"18-7-405. Adoption of printing standards.** The ~~board~~ department shall adopt necessary standards
 16 for typeface, type size, type style, and type leading for county legal advertising."

18 **Section 14.** Section 90-1-403, MCA, is amended to read:

19 **"90-1-403. Definitions.** As used in this part, unless the context requires otherwise, the following
 20 definitions apply:

21 (1) "Account" means the Montana land information account created in 90-1-409.

22 ~~(2)~~ "Council" means the land information advisory council established in 90-1-405.

23 ~~(3)~~(2) "Department" means the department of administration provided for in 2-15-1001.

24 ~~(4)~~(3) "Digital format" means information that is scanned, electronically drawn, layered through the GIS,
 25 or digitized by other electronic methods.

26 ~~(5)~~(4) "Geographic information system" or "GIS" means an organized collection of computer hardware,
 27 software, land information, and other resources, including personnel, that is designed to or assists to efficiently
 28 collect, maintain, and disseminate all forms of geographically referenced information.

29 ~~(6)~~(5) "Land information" means data that describes the geographic location and characteristics of
 30 natural or constructed features and boundaries within or pertaining to Montana."

1

2 **Section 15.** Section 90-1-404, MCA, is amended to read:

3 **"90-1-404. Land information -- management -- duties of department.** (1) The department shall:

4 (a) serve as the administrator of the account;

5 (b) work with all federal, state, local, private, and tribal entities to develop and maintain land information;

6 (c) annually develop a land information plan that describes the priority needs to collect, maintain, and

7 disseminate land information. The land information plan must have as a component a proposed budget designed

8 to accomplish the goals and objectives of the plan.

9 (d) present the land information plan to the information technology advisory council established in

10 2-15-1021 for review and endorsement;

11 (e) establish, by administrative rule, an application process and a granting process that must be used

12 to distribute funds in the account. The granting process must give preference to interagency or intergovernmental

13 grant requests whenever multiple state agencies, local governments or agencies, or Indian tribal governments

14 or tribal entities have partnered together to meet a requirement of the land information plan.

15 (f) review all grant applications from state agencies, local governments or agencies, and Indian tribal

16 governments or tribal entities for the purpose of implementing the land information plan;

17 (g) monitor the use of grant funds distributed to a state agency, a local government or agency, or an

18 Indian tribal government or tribal entity or to any combination of state, local, and Indian tribal governments or

19 entities to ensure that the use of the funds complies with the purposes of this part;

20 (h) coordinate the development of technological standards for creating land information;

21 (i) serve as the primary point of contact for national, regional, state, and other GIS coordinating groups

22 for the purpose of channeling issues and projects to the appropriate individual, organization, agency, or other

23 entity;

24 ~~(j) provide administrative and staff support to the council, including paying the expenses of the council;~~

25 ~~(k)~~(j) annually prepare a budget to carry out the department's responsibilities described in this section;

26 ~~(l)~~(k) report to the governor and the legislature, as provided for in 5-11-210, on the progress made in the

27 ongoing collection, maintenance, standardization, and dissemination of land information; and

28 ~~(m)~~(l) implement the conservation easement information requirements as provided for in 76-6-212.

29 (2) To fulfill the responsibilities described in subsection (1), the department or any recipient of funds

30 granted pursuant to this part may contract with a public or private entity."

