

HOUSE BILL NO. 149

INTRODUCED BY M. BINKLEY

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE 9-1-1 PROGRAM; REVISING DEFINITIONS; TRANSFERRING AUTHORITY FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF JUSTICE; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 2-17-506, 2-17-512, 2-17-513, 2-17-516, 2-17-543, AND 2-17-545, MCA."

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

Section 1. Section 2-17-506, MCA, is amended to read:

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

(1) "Board" means the information technology board established in 2-15-1021.

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

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

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

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

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

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

(8) "Long-range information technology capital project" means a discrete long-range information technology system or application, including the replacement or upgrade to existing systems.

~~(9) "Private safety agency" has the same meaning as provided in 10-4-101.~~

1 ~~(10) "Public safety agency" has the same meaning as provided in 10-4-101.~~

2 ~~(11)~~(9) "State agency" means any entity of the executive branch, including the university system.

3 ~~(12)~~(10) "Statewide telecommunications network" means any telecommunications facilities, circuits,
4 equipment, software, and associated contracted services administered by the department for the transmission
5 of voice, video, or electronic data from one device to another."
6

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

8 **"2-17-512. Powers and duties of department.** (1) The department is responsible for carrying out the
9 planning and program responsibilities for information technology for state government, except the national
10 guard. The department shall:

11 (a) encourage and foster the development of new and innovative information technology within
12 state government;

13 (b) promote, coordinate, and approve the development and sharing of shared information
14 technology application software, management systems, and information that provide similar functions for
15 multiple state agencies;

16 (c) cooperate with the office of economic development to promote economic development
17 initiatives based on information technology;

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

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

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

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

28 (h) staff the information technology board provided for in 2-15-1021;

- 1 (i) fund the administrative costs of the information technology board provided for in 2-15-1021;
- 2 (j) review the use of information technology resources for all state agencies;
- 3 (k) review and approve state agency specifications and procurement methods for the acquisition of
4 information technology resources;
- 5 (l) review, approve, and sign all state agency contracts and shall review and approve other formal
6 agreements for information technology resources provided by the private sector and other government entities;
- 7 (m) operate and maintain a central computer center for the use of state government, political
8 subdivisions, and other participating entities under terms and conditions established by the department;
- 9 (n) operate and maintain a statewide telecommunications network for the use of state government,
10 political subdivisions, and other participating entities under terms and conditions established by the department;
- 11 (o) ensure that the statewide telecommunications network is properly maintained. The department
12 may establish a centralized maintenance program for the statewide telecommunications network.
- 13 ~~(p) coordinate public safety communications on behalf of public and private safety agencies as
14 provided for in 2-17-543 through 2-17-545 ;~~
- 15 ~~(q) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;~~
- 16 ~~(+)(p)~~ provide electronic access to information and services of the state as provided for in 2-17-532;
- 17 ~~(+)(q)~~ provide assistance to the legislature, the judiciary, the governor, and state agencies relative to
18 state and interstate information technology matters;
- 19 ~~(+)(r)~~ establish rates and other charges for services provided by the department;
- 20 ~~(+)(s)~~ accept federal funds granted by congress or by executive order and gifts, grants, and
21 donations for any purpose of this section;
- 22 ~~(+)(t)~~ dispose of personal property owned by it in a manner provided by law when, in the judgment of
23 the department, the disposal best promotes the purposes for which the department is established;
- 24 ~~(+)(u)~~ implement this part and all other laws for the use of information technology in state
25 government;
- 26 ~~(+)(v)~~ provide a biennial report to the state administration and veterans' affairs interim committee and
27 to the legislature as provided in 5-11-210 on the information technology activities of the department; and
- 28 ~~(+)(w)~~ represent the state with public and private entities on matters of information technology.

1 (2) If it is in the state's best interest, the department may contract with qualified private
2 organizations, foundations, or individuals to carry out the purposes of this section.

3 (3) The director of the department shall appoint the chief information officer to assist in carrying out
4 the department's information technology duties."
5

6 **Section 3.** Section 2-17-513, MCA, is amended to read:

7 **"2-17-513. Duties of board.** The board shall:

8 (1) provide a forum to:

9 (a) guide state agencies, the legislative branch, the judicial branch, and local governments in the
10 development and deployment of intergovernmental information technology resources;

11 (b) share information among state agencies, local governments, and federal agencies regarding
12 the development of information technology resources;

13 (2) advise the department:

14 (a) in the development of cooperative contracts for the purchase of information technology
15 resources;

16 (b) regarding the creation, management, and administration of electronic government services and
17 information on the internet;

18 (c) regarding the administration of electronic government services contracts;

19 (d) on the priority of government services to be provided electronically;

20 (e) on convenience fees prescribed in 2-17-1102 and 2-17-1103, if needed, for electronic
21 government services; and

22 (f) on any other aspect of providing electronic government services;

23 (3) review and advise the department on:

24 (a) statewide information technology standards and policies;

25 (b) the state strategic information technology plan;

26 (c) major information technology budget requests;

27 (d) rates and other charges for services established by the department as provided in ~~2-17-~~

28 ~~512(1)(t)~~ 2-17-512(1)(r);

- 1 (e) requests for exceptions as provided for in 2-17-515;
- 2 (f) notification of proposed exemptions by the university system and office of public instruction as
3 provided for in 2-17-516;
- 4 (g) action taken by the department as provided in 2-17-514(1) for any activity that is not in
5 compliance with this part;
- 6 (h) the implementation of major information technology projects and advise the respective
7 governing authority of any issue of concern to the board relating to implementation of the project; and
- 8 (i) financial reports, management reports, and other data as requested by the department;
- 9 (4) study state government's present and future information technology needs and advise the
10 department on the use of emerging technology in state government;
- 11 (5) request information and reports that it considers necessary from any entity using or having
12 access to the statewide telecommunications network or central computer center;
- 13 (6) assist in identifying, evaluating, and prioritizing potential departmental and interagency
14 electronic government services;
- 15 (7) serve as a central coordination point for electronic government services provided by the
16 department and other state agencies;
- 17 (8) study, propose, develop, or coordinate any other activity in furtherance of electronic
18 government services as requested by the governor or the legislature; and
- 19 (9) prepare and submit to the state administration and veterans' affairs interim committee in
20 accordance with 5-11-210 a report including but not necessarily limited to a summary of the board's activities, a
21 review of the electronic government program established under part 11 of this chapter, and any key findings
22 and recommendations that the board presented to the department."

23

24 **Section 4.** Section 2-17-516, MCA, is amended to read:

25 **"2-17-516. Exemptions -- department of justice -- secretary of state -- university system -- office**
26 **of public instruction -- national guard.** (1) Unless the proposed activities would detrimentally affect the
27 operation of the central computer center or the statewide telecommunications network, the office of public
28 instruction and the secretary of state are exempt from 2-17-512(1)(k) and (1)(l).

1 (2) Unless the proposed activities would detrimentally affect the operation of the central computer
2 center or the statewide telecommunications network, the department of justice and the university system are
3 exempt from:

4 (a) the enforcement provisions of 2-17-512(1)(d) and (1)(e) and 2-17-514;

5 (b) the approval provisions of 2-17-512(1)(f), 2-17-523, and 2-17-527;

6 (c) the budget approval provisions of 2-17-512(1)(g); and

7 (d) the provisions of 2-17-512(1)(k) and (1)(l).

8 (3) The department, upon notification of proposed activities by the department of justice, the
9 secretary of state, the university system, or the office of public instruction, shall determine if the central
10 computer center or the statewide telecommunications network would be detrimentally affected by the proposed
11 activity.

12 (4) (a) For purposes of this section, a proposed activity affects the operation of the central
13 computer center or the statewide telecommunications network if it detrimentally affects the processing
14 workload, reliability, cost of providing service, or support service requirements of the central computer center or
15 the statewide telecommunications network or fails to meet the minimum security policies and standards set by
16 the department.

17 (b) Potential loss of revenue from fees paid by the department of justice, the secretary of state, the
18 university system, or the office of public instruction for not utilizing services offered by the department are not
19 considered a detrimental effect to the statewide telecommunications network or central computer center. If the
20 department of justice, the secretary of state, the university system, or the office of public instruction does not
21 utilize a service program after the department's rate was set for the biennium, the agency shall continue to pay
22 any fees associated with the service or program for the remainder of the biennium.

23 (5) When reviewing proposed activities of the university system, the department shall consider and
24 make reasonable allowances for the unique educational needs and characteristics and the welfare of the
25 university system as determined by the board of regents.

26 (6) When reviewing proposed activities of the office of public instruction, the department shall
27 consider and make reasonable allowances for the unique educational needs and characteristics of the office of
28 public instruction to communicate and share data with school districts.

1 (7) When reviewing proposed activities of the department of justice, the department shall consider
 2 and make reasonable allowances for the unique safety and security needs and characteristics of the
 3 department of justice to communicate and share data with federal, state, and local law enforcement entities.

4 (8) Section ~~2-17-512(1)(u)~~ 2-17-512(1)(s) may not be construed to prohibit the university system
 5 from accepting federal funds or gifts, grants, or donations related to information technology or
 6 telecommunications.

7 (9) The national guard, as defined in 10-1-101(3), is exempt from 2-17-512."
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9 **Section 5.** Section 2-17-543, MCA, is amended to read:

10 **"2-17-543. ~~Rulemaking 9-1-1 and mutual aid frequency programs -- rulemaking authority.~~ (1)**

11 The department of justice shall:

12 (a) coordinate public safety communications on behalf of public and private safety agencies as
 13 provided in 2-17-544, 2-17-545, and this section; and

14 (b) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3.

15 (2) The department of justice may adopt rules to implement the mutual aid frequency manual
 16 provided for in 2-17-545.

17 ~~(2)(3)~~ The department of justice shall obtain input from all public and private safety agency users of
 18 mutual aid frequencies for land mobile radio.

19 (4) As used in 2-17-544 and this section, "public safety agency" and "private safety agency" have
 20 the same meanings as provided in 10-4-101."

21

22 **Section 6.** Section 2-17-545, MCA, is amended to read:

23 **"2-17-545. Mutual aid frequencies manual -- land mobile radio.** The department of justice shall
 24 develop and maintain a manual that includes policies and procedures for the effective and efficient use of
 25 mutual aid frequencies for land mobile radio."

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