

By: Senator(s) Burton

To: Fees, Salaries and Administration

SENATE BILL NO. 2998

1 AN ACT TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY  
3 SERVICES SHALL ASSIST POLITICAL SUBDIVISIONS AND INSTRUMENTALITIES  
4 IN THEIR DEVELOPMENT OF PLANS FOR THE EFFICIENT ACQUISITION AND  
5 UTILIZATION OF COMPUTER EQUIPMENT AND SERVICES UPON THE REQUEST OF  
6 THE GOVERNING BODY OF SUCH POLITICAL SUBDIVISIONS AND  
7 INSTRUMENTALITIES; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 25-53-5, Mississippi Code of 1972, is  
10 amended as follows:

11 25-53-5. The authority shall have the following powers,  
12 duties, and responsibilities:

13 (a) The authority shall provide for the development of  
14 plans for the efficient acquisition and utilization of computer  
15 equipment and services by all agencies of state government, and  
16 provide for their implementation. In so doing, the authority may  
17 use the MDITS staff, at the discretion of the executive director  
18 of the authority, or the authority may contract for the services  
19 of qualified consulting firms in the field of information  
20 technology and utilize the service of such consultants as may be  
21 necessary for such purposes.

22 (b) The authority shall immediately institute  
23 procedures for carrying out the purposes of this chapter and  
24 supervise the efficient execution of the powers and duties of the  
25 office of executive director of the authority. In the execution  
26 of its functions under this chapter, the authority shall maintain  
27 as a paramount consideration the successful internal organization  
28 and operation of the several agencies so that efficiency existing  
29 therein shall not be adversely affected or impaired. In executing

30 its functions in relation to the institutions of higher learning  
31 and junior colleges in the state, the authority shall take into  
32 consideration the special needs of such institutions in relation  
33 to the fields of teaching and scientific research.

34 (c) Title of whatever nature of all computer equipment  
35 now vested in any agency of the State of Mississippi is hereby  
36 vested in the authority, and no such equipment shall be disposed  
37 of in any manner except in accordance with the direction of the  
38 authority or under the provisions of such rules and regulations as  
39 may hereafter be adopted by the authority in relation thereto.

40 (d) The authority shall adopt rules, regulations, and  
41 procedures governing the acquisition of computer and  
42 telecommunications equipment and services which shall, to the  
43 fullest extent practicable, insure the maximum of competition  
44 between all manufacturers of supplies or equipment or services.  
45 In the writing of specifications, in the making of contracts  
46 relating to the acquisition of such equipment and services, and in  
47 the performance of its other duties the authority shall provide  
48 for the maximum compatibility of all information systems hereafter  
49 installed or utilized by all state agencies and may require the  
50 use of common computer languages where necessary to accomplish the  
51 purposes of this chapter. The authority may establish by  
52 regulation and charge reasonable fees on a nondiscriminatory basis  
53 for the furnishing to bidders of copies of bid specifications and  
54 other documents issued by the authority.

55 (e) The authority shall adopt rules and regulations  
56 governing the sharing with, or the sale or lease of information  
57 technology services to any nonstate agency or person. Such  
58 regulations shall provide that any such sharing, sale, or lease  
59 shall be restricted in that same shall be accomplished only where  
60 such services are not readily available otherwise within the  
61 state, and then only at a charge to the user not less than the

62 prevailing rate of charge for similar services by private  
63 enterprise within this state.

64 (f) The authority may, in its discretion, establish a  
65 special technical advisory committee or committees to study and  
66 make recommendations on technology matters within the competence  
67 of the authority as the authority may see fit. Persons serving on  
68 the Information Resource Council, its task forces, or any such  
69 technical advisory committees shall be entitled to receive their  
70 actual and necessary expenses actually incurred in the performance  
71 of such duties, together with mileage as provided by law for state  
72 employees, provided the same has been authorized by a resolution  
73 duly adopted by the authority and entered on its minutes prior to  
74 the performance of such duties.

75 (g) The authority may provide for the development and  
76 require the adoption of standardized computer programs and may  
77 provide for the dissemination of information to and the  
78 establishment of training programs for the personnel of the  
79 various information technology centers of state agencies and  
80 personnel of the agencies utilizing the services thereof.

81 (h) The authority shall adopt reasonable rules and  
82 regulations requiring the reporting to the authority through the  
83 office of executive director of such information as may be  
84 required for carrying out the purposes of this chapter and may  
85 also establish such reasonable procedures to be followed in the  
86 presentation of bills for payment under the terms of all contracts  
87 for the acquisition of computer equipment and services now or  
88 hereafter in force as may be required by the authority or by the  
89 executive director in the execution of their powers and duties.

90 (i) The authority shall require such adequate  
91 documentation of information technology procedures utilized by the  
92 various state agencies and may require the establishment of such  
93 organizational structures within state agencies relating to

94 information technology operations as may be necessary to  
95 effectuate the purposes of this chapter.

96 (j) The authority may adopt such further reasonable  
97 rules and regulations as may be necessary to fully implement the  
98 purposes of this chapter. All rules and regulations adopted by  
99 the authority shall be published and disseminated in readily  
100 accessible form to all affected state agencies, and to all current  
101 suppliers of computer equipment and services to the state, and to  
102 all prospective suppliers requesting the same. Such rules and  
103 regulations shall be kept current, be periodically revised, and  
104 copies thereof shall be available at all times for inspection by  
105 the public at reasonable hours in the offices of the authority.  
106 Whenever possible no rule, regulation or any proposed amendment to  
107 such rules and regulations shall be finally adopted or enforced  
108 until copies of said proposed rules and regulations have been  
109 furnished to all interested parties for their comment and  
110 suggestions.

111 (k) The authority shall establish rules and regulations  
112 which shall provide for the submission of all contracts proposed  
113 to be executed by the executive director for computer equipment or  
114 services to the authority for approval before final execution, and  
115 the authority may provide that such contracts involving the  
116 expenditure of less than such specified amount as may be  
117 established by the authority may be finally executed by the  
118 executive director without first obtaining such approval by the  
119 authority.

120 (l) The authority is authorized to purchase, lease, or  
121 rent computer equipment or services and to operate said equipment  
122 and utilize said services in providing services to one or more  
123 state agencies when in its opinion such operation will provide  
124 maximum efficiency and economy in the functions of any such agency  
125 or agencies.

126           (m) Upon the request of the governing body of a  
127 political subdivision or instrumentality, the authority shall  
128 assist the political subdivision or instrumentality in its  
129 development of plans for the efficient acquisition and utilization  
130 of computer equipment and services. An appropriate fee shall be  
131 charged the political subdivision by the authority for such  
132 assistance.

133           (n) The authority shall adopt rules and regulations  
134 governing the protest procedures to be followed by any actual or  
135 prospective bidder, offerer or contractor who is aggrieved in  
136 connection with the solicitation or award of a contract for the  
137 acquisition of computer equipment or services. Such rules and  
138 regulations shall prescribe the manner, time and procedure for  
139 making protests and may provide that a protest not timely filed  
140 shall be summarily denied. The authority may require the  
141 protesting party, at the time of filing the protest, to post a  
142 bond, payable to the state, in an amount that the authority  
143 determines sufficient to cover any expense or loss incurred by the  
144 state, the authority or any state agency as a result of the  
145 protest if the protest subsequently is determined by a court of  
146 competent jurisdiction to have been filed without any substantial  
147 basis or reasonable expectation to believe that the protest was  
148 meritorious; however, in no event may the amount of the bond  
149 required exceed a reasonable estimate of the total project cost.  
150 The authority, in its discretion, also may prohibit any  
151 prospective bidder, offerer or contractor who is a party to any  
152 litigation involving any such contract with the state, the  
153 authority or any agency of the state to participate in any other  
154 such bid, offer or contract, or to be awarded any such contract,  
155 during the pendency of the litigation.

156           (o) The authority shall make a report in writing to the  
157 Legislature each year in the month of January. Such report shall

158 contain a full and detailed account of the work of the authority  
159 for the preceding year as specified in Section 25-53-29(3).

160 All acquisitions of computer equipment and services involving  
161 the expenditure of funds in excess of the dollar amount  
162 established in Section 31-7-13(c), or rentals or leases in excess  
163 of the dollar amount established in Section 31-7-13(c) for the  
164 term of the contract, shall be based upon competitive and open  
165 specifications, and contracts therefor shall be entered into only  
166 after advertisements for bids are published in one or more daily  
167 newspapers having a general circulation in the state not less than  
168 fourteen (14) days prior to receiving sealed bids therefor. The  
169 authority may reserve the right to reject any or all bids, and if  
170 all bids are rejected, the authority may negotiate a contract  
171 within the limitations of the specifications so long as the terms  
172 of any such negotiated contract are equal to or better than the  
173 comparable terms submitted by the lowest and best bidder, and so  
174 long as the total cost to the State of Mississippi does not exceed  
175 the lowest bid. If the authority accepts one (1) of such bids, it  
176 shall be that which is the lowest and best.

177 (p) When applicable, the authority may procure  
178 equipment, systems and related services in accordance with the law  
179 or regulations, or both, which govern the Bureau of Purchasing of  
180 the Office of General Services or which govern the Mississippi  
181 Department of Information Technology Services procurement of  
182 telecommunications equipment, software and services.

183 (q) The authority is authorized to purchase, lease, or  
184 rent information technology and services for the purpose of  
185 establishing pilot projects to investigate emerging technologies.  
186 These acquisitions shall be limited to new technologies and shall  
187 be limited to an amount set by annual appropriation of the  
188 Legislature. These acquisitions shall be exempt from the  
189 advertising and bidding requirement.

190           (r) All fees collected by the Mississippi Department of  
191 Information Technology Services shall be deposited into the  
192 Mississippi Department of Information Technology Services  
193 Revolving Fund unless otherwise specified by the Legislature.

194           (s) The authority shall work closely with the council  
195 to bring about effective coordination of policies, standards and  
196 procedures relating to procurement of remote sensing and  
197 geographic information systems (GIS) resources. In addition, the  
198 authority is responsible for development, operation and  
199 maintenance of a delivery system infrastructure for geographic  
200 information systems data. The authority shall provide a warehouse  
201 for Mississippi's geographic information systems data.

202           **SECTION 2.** This act shall take effect and be in force from  
203 and after July 1, 2004.