

By: Senator(s) Chaney

To: Public Utilities;
Appropriations

SENATE BILL NO. 2775

1 AN ACT TO AMEND SECTIONS 25-53-5 AND 25-53-21, MISSISSIPPI
2 CODE OF 1972, TO DIRECT THE MISSISSIPPI DEPARTMENT OF INFORMATION
3 TECHNOLOGY TO DEVELOP AN ANNUAL REPORT TO THE LEGISLATURE AND THE
4 GOVERNOR ON THE STATUS OF INFORMATION TECHNOLOGY AND APPLICATIONS
5 AT THE STATE AND LOCAL LEVEL IN ORDER TO IMPROVE THE COMMUNICATION
6 AMONG STATE AND LOCAL GOVERNMENT; TO CREATE A COMMITTEE TO STUDY
7 THE IMPACT OF TECHNOLOGY ON STATE AND LOCAL GOVERNMENT; AND FOR
8 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

203 (t) The authority shall develop and submit an annual
204 report to the Legislature and the Governor regarding the status
205 and future progress of information technology and technology
206 applications in agencies of state and local government. The
207 report shall address the ability of state and local agencies of
208 government to make nonconfidential communications using the same
209 updated technology. This report will be made available beginning
210 with the convening of the 2007 Regular Session of the Legislature
211 and will be updated and appropriately modified in each successive
212 session.

213 (u) There is hereby created an interim committee to
214 study the impact of information technology on state and local
215 government. The committee shall consist of the following ex
216 officio members: (i) the State Auditor, or his designee; (ii) the
217 Executive Director of the Mississippi Department of Information
218 Technology, or his designee; and (iii) the Executive Director of
219 the Department of Finance and Administration, or his designee.
220 The committee shall also consist of the following appointments:
221 three (3) appointments by the Governor representing the business
222 sector, county government and municipal government; three (3)
223 Senators appointed by the Lieutenant Governor; and three (3)

224 Representatives appointed by the Speaker of the House of
225 Representatives. The State Auditor shall serve as chairman of the
226 committee and shall call necessary meetings. Members shall not be
227 compensated for attending meetings. The committee shall study the
228 progress and future plans for information technology in
229 Mississippi. It will determine whether or not the state should
230 have a Chief Information Officer whose duty is to mandate
231 particular applications of technology to be utilized by state and
232 local governmental agencies. The committee shall assist the
233 Department of Information Technology in developing its first
234 required report to the Legislature and Governor under paragraph
235 (t). After the presentation of its report to the 2007 Regular
236 Session, the committee shall be dissolved.

237 **SECTION 2.** Section 25-53-21, Mississippi Code of 1972, is
238 amended as follows:

239 25-53-21. The executive director shall have the following
240 duties, responsibilities and authority:

241 (a) He shall conduct continuing studies of all
242 information technology activities carried out by all agencies of
243 the state and shall develop a long-range plan for the efficient
244 and economical performance of such activities in state government.
245 Such plan shall be submitted to the authority for its approval
246 and, having been approved by the authority, shall be implemented
247 by the executive director and all state agencies. Such plan shall
248 be continuously reviewed and modifications thereof shall be
249 proposed to the authority by the executive director as
250 developments in information technology techniques and changes in
251 the structure, activities, and functions of state government may
252 require.

253 (b) He shall review the purchasing practices of all
254 state agencies in the area of the purchasing of supplies for
255 information technology and make recommendations to the authority
256 and to the Public Procurement Review Board for the institution of

257 purchasing procedures which will insure the most economical
258 procurement of such supplies commensurate with the efficient
259 operation of all departments and agencies of state government.

260 (c) He shall see that all reports required of all
261 agencies are promptly and accurately made in accordance with the
262 rules and regulations adopted by the authority. Either in person
263 or through his authorized agents, he shall make such inspections
264 of information technology operations being conducted by any of the
265 agencies of the state as may be necessary for the performance of
266 his duties.

267 (d) He shall suggest and cause to be brought about
268 cooperation between the several state agencies in order to provide
269 efficiency in information technology operation. He shall,
270 together with the heads of the agencies involved, reduce to
271 writing and execute cooperative plans for the acquisition and
272 operation of information technology equipment, and any such plan
273 so adopted shall be carried out in accordance with the provisions
274 of such plan unless the same shall be amended by the joint action
275 of the executive director and the heads of agencies involved. The
276 executive director shall report to the authority the details of
277 any plan so adopted and all amendments or modifications thereof,
278 and shall otherwise report to the authority and to the Public
279 Procurement Review Board any failure on the part of any agency to
280 carry out the provisions of such plan. In the event the head of
281 any agency involved or the executive director shall propose
282 amendments to a plan so adopted and such amendment is disapproved
283 by the head of another agency involved or the executive director,
284 an appeal may be taken to the authority which may, after full
285 consideration thereof, order the adoption of the proposed
286 amendment or any modification thereof. The executive director
287 shall make decisions on all questions of the division of the cost
288 of information technology operations among the several agencies,

289 but his findings shall be subject to the approval or modification
290 by the authority on appeal to it.

291 (e) He shall review all contracts for acquisition of
292 computer equipment or services now or hereafter in force and may
293 require the renegotiation, termination, amendment or execution of
294 any such contracts in proper form and in accordance with the
295 policies and rules and regulations and subject to the direction of
296 the authority. In the negotiation and execution of such
297 contracts, the executive director may negotiate a limitation on
298 the liability to the state of prospective contractors provided
299 such limitation affords the state reasonable protection.

300 (f) He shall act as the purchasing and contracting
301 agent for the State of Mississippi in the negotiation and
302 execution of all contracts for the acquisition of computer
303 equipment or services. He shall receive, review, and promptly
304 approve or disapprove all requests of agencies of the state for
305 the acquisition of computer equipment or services, which are
306 submitted in accordance with rules and regulations of the
307 authority. In the event that any such request is disapproved, he
308 shall immediately notify the requesting agency and the members of
309 the authority in writing of such disapproval, stating his reasons
310 therefor. The disapproval of any request by the executive
311 director of the authority may be appealed to the authority or to
312 the Public Procurement Review Board, respectively, in such manner
313 as may be authorized by such reasonable rules and regulations
314 hereby authorized to be adopted by the authority and by the Public
315 Procurement Review Board to govern the same. The executive
316 director shall report the approval of all such requests to the
317 authority in such manner as may be directed by the authority, and
318 shall execute any such contracts only after complying with rules
319 and regulations which may be adopted by the authority in relation
320 thereto. Any contracts for personal or professional services
321 entered into by the executive director shall be exempted from the

322 requirements of Section 25-9-120(3) relating to submission of such
323 contract to the State Personal Service Contract Review Board.

324 (g) He shall suggest and cause to be brought about
325 cooperation between the several state agencies, departments and
326 institutions in order that work may be done by one agency for
327 another agency, and equipment in one agency may be made available
328 to another agency, and suggest and cause to be brought about such
329 improvements as may be necessary in joint or cooperative
330 information technology operations.

331 (h) He shall be designated as the "Chief Information
332 Confidentiality Officer" after being duly sworn to the oath of
333 this office by the chairman of the authority and shall be
334 responsible for administering the oath to other qualified officers
335 he may designate.

336 (i) He shall appoint employees of the Mississippi
337 Department of Information Technology Services, or at his
338 discretion, employees of other state agencies and institutions
339 that are responsible for handling or processing data for any
340 agency or institution other than that for which they are employed,
341 to a position of information custodial care that shall be known as
342 "Information Confidentiality Officer." The selection and swearing
343 of all officers shall be reported to the authority at the next
344 regular meeting and names, affirmation dates and employment dates
345 shall be recorded in the permanent minutes of the authority.

346 (j) He shall assist the authority in the development of
347 the annual report to the Legislature and the Governor on the
348 status and progress of information technology and applications in
349 state and local government, as required in Section 25-53-5(t) and
350 (u).

351 **SECTION 3.** This act shall take effect and be in force from
352 and after July 1, 2006.