

By: Senator(s) DeLano

To: Technology

SENATE BILL NO. 2728
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-53-5, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE STATEWIDE MASTER AGREEMENTS; TO AUTHORIZE UTILIZATION OF
3 INFORMATION TECHNOLOGY ACQUISITIONS MADE BY OTHER ENTITIES; AND
4 FOR RELATED PURPOSES.

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

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

8 25-53-5. The authority shall have the following powers,
9 duties, and responsibilities:

10 (a) (i) The authority shall provide for the
11 development of plans for the efficient acquisition and utilization
12 of computer equipment and services by all agencies of state
13 government, and provide for their implementation. In so doing,
14 the authority may use the MDITS' staff, at the discretion of the
15 executive director of the authority, or the authority may contract
16 for the services of qualified consulting firms in the field of
17 information technology and utilize the service of such consultants
18 as may be necessary for such purposes. Pursuant to Section
19 25-53-1, the provisions of this section shall not apply to the



20 Department of Human Services for a period of three (3) years
21 beginning on July 1, 2017. Pursuant to Section 25-53-1, the
22 provisions of this section shall not apply to the Department of
23 Child Protection Services for a period of three (3) years
24 beginning July 1, 2017.

25 (ii) [Repealed]

26 (b) The authority shall immediately institute
27 procedures for carrying out the purposes of this chapter and
28 supervise the efficient execution of the powers and duties of the
29 office of executive director of the authority. In the execution
30 of its functions under this chapter, the authority shall maintain
31 as a paramount consideration the successful internal organization
32 and operation of the several agencies so that efficiency existing
33 therein shall not be adversely affected or impaired. In executing
34 its functions in relation to the institutions of higher learning
35 and junior colleges in the state, the authority shall take into
36 consideration the special needs of such institutions in relation
37 to the fields of teaching and scientific research.

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



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

59 (e) The authority shall adopt rules and regulations
60 governing the sharing with, or the sale or lease of information
61 technology services to any nonstate agency or person. Such
62 regulations shall provide that any such sharing, sale or lease
63 shall be restricted in that same shall be accomplished only where
64 such services are not readily available otherwise within the
65 state, and then only at a charge to the user not less than the
66 prevailing rate of charge for similar services by private
67 enterprise within this state.



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

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

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



92 hereafter in force as may be required by the authority or by the
93 executive director in the execution of their powers and duties.

94 (i) The authority shall require such adequate
95 documentation of information technology procedures utilized by the
96 various state agencies and may require the establishment of such
97 organizational structures within state agencies relating to
98 information technology operations as may be necessary to
99 effectuate the purposes of this chapter.

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

115 (k) The authority shall establish rules and regulations
116 which shall provide for the submission of all contracts proposed



117 to be executed by the executive director for computer equipment
118 and/or telecommunications or services, including cloud computing,
119 to the authority for approval before final execution, and the
120 authority may provide that such contracts involving the
121 expenditure of less than such specified amount as may be
122 established by the authority may be finally executed by the
123 executive director without first obtaining such approval by the
124 authority.

125 (l) The authority is authorized to consider new
126 technologies, such as cloud computing, to purchase, lease, or rent
127 computer equipment or services and to operate that equipment and
128 use those services in providing services to one or more state
129 agencies when in its opinion such operation will provide maximum
130 efficiency and economy in the functions of any such agency or
131 agencies.

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

139 (n) The authority shall adopt rules and regulations
140 governing the protest procedures to be followed by any actual or
141 prospective bidder, offerer or contractor who is aggrieved in



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

162 (o) The authority shall make a report in writing to the
163 Legislature each year in the month of January. Such report shall
164 contain a full and detailed account of the work of the authority
165 for the preceding year as specified in Section 25-53-29(3).



166 All acquisitions of computer equipment and services involving
167 the expenditure of funds in excess of the dollar amount
168 established in Section 31-7-13(c), or rentals or leases in excess
169 of the dollar amount established in Section 31-7-13(c) for the
170 term of the contract, shall be based upon competitive and open
171 specifications, and contracts therefor shall be entered into only
172 after advertisements for bids are published in one or more daily
173 newspapers having a general circulation in the state not less than
174 fourteen (14) days prior to receiving sealed bids therefor. The
175 authority may reserve the right to reject any or all bids, and if
176 all bids are rejected, the authority may negotiate a contract
177 within the limitations of the specifications so long as the terms
178 of any such negotiated contract are equal to or better than the
179 comparable terms submitted by the lowest and best bidder, and so
180 long as the total cost to the State of Mississippi does not exceed
181 the lowest bid. If the authority accepts one (1) of such bids, it
182 shall be that which is the lowest and best. Through June 30,
183 2023, the provisions of this paragraph shall not apply to
184 acquisitions of information technology equipment and services made
185 by the Mississippi Department of Health and/or the Mississippi
186 Department of Revenue for the purposes of implementing,
187 administering and/or enforcing the provisions of the Mississippi
188 Medical Cannabis Act.

189 (p) When applicable, the authority may procure
190 equipment, systems and related services in accordance with the law



191 or regulations, or both, which govern the Bureau of Purchasing of
192 the Office of General Services or which govern the Mississippi
193 Department of Information Technology Services procurement of
194 telecommunications equipment, software and services.

195 (q) The authority is authorized to purchase, lease, or
196 rent information technology and services for the purpose of
197 establishing pilot projects to investigate emerging technologies.
198 These acquisitions shall be limited to new technologies and shall
199 be limited to an amount set by annual appropriation of the
200 Legislature. These acquisitions shall be exempt from the
201 advertising and bidding requirement.

202 (r) To promote the maximum use and benefit from
203 technology and services now in operation or which will in the
204 future be placed in operation and to identify opportunities,
205 minimize duplication, reduce costs and improve the efficiency of
206 providing common technology services the authority is authorized
207 to:

208 (i) Enter into master agreements for computer or
209 telecommunications equipment or services, including cloud
210 computing, available for shared use by state agencies, institutes
211 of higher learning and governing authorities; and

212 (ii) Enter into contracts for the acquisition of
213 computer or telecommunications equipment or services, including
214 cloud computing, that have been acquired by other entities,
215 located within or outside of the State of Mississippi, so long as



216 it is determined by the authority to be in the best interest of
217 the State. The acquisitions provided in this subsection (r) shall
218 be exempt from the advertising and bidding requirements of Section
219 25-53-1 et seq.

220 (* * *s) All fees collected by the Mississippi
221 Department of Information Technology Services shall be deposited
222 into the Mississippi Department of Information Technology Services
223 Revolving Fund unless otherwise specified by the Legislature.

224 (* * *t) The authority shall work closely with the
225 council to bring about effective coordination of policies,
226 standards and procedures relating to procurement of remote sensing
227 and geographic information systems (GIS) resources. In addition,
228 the authority is responsible for development, operation and
229 maintenance of a delivery system infrastructure for geographic
230 information systems data. The authority shall provide a warehouse
231 for Mississippi's geographic information systems data.

232 (* * *u) The authority shall manage one or more State
233 Data Centers to provide information technology services on a
234 cost-sharing basis. In determining the appropriate services to be
235 provided through the State Data Center, the authority should
236 consider those services that:

- 237 (i) Result in savings to the state as a whole;
238 (ii) Improve and enhance the security and
239 reliability of the state's information and business systems; and



240 (iii) Optimize the efficient use of the state's
241 information technology assets, including, but not limited to,
242 promoting partnerships with the state institutions of higher
243 learning and community colleges to capitalize on advanced
244 information technology resources.

245 (* * *y) The authority shall increase federal
246 participation in the cost of the State Data Center to the extent
247 provided by law and its shared technology infrastructure through
248 providing such shared services to agencies that receive federal
249 funds. With regard to state institutions of higher learning and
250 community colleges, the authority may provide shared services when
251 mutually agreeable, following a determination by both the
252 authority and the Board of Trustees of State Institutions of
253 Higher Learning or the Mississippi Community College Board, as the
254 case may be, that the sharing of services is mutually beneficial.

255 (* * *w) The authority, in its discretion, may require
256 new or replacement agency business applications to be hosted at
257 the State Data Center. With regard to state institutions of
258 higher learning and community colleges, the authority and the
259 Board of Trustees of State Institutions of Higher Learning or the
260 Mississippi Community College Board, as the case may be, may agree
261 that institutions of higher learning or community colleges may
262 utilize business applications that are hosted at the State Data
263 Center, following a determination by both the authority and the
264 applicable board that the hosting of those applications is



265 mutually beneficial. In addition, the authority may establish
266 partnerships to capitalize on the advanced technology resources of
267 the Board of Trustees of State Institutions of Higher Learning or
268 the Mississippi Community College Board, following a determination
269 by both the authority and the applicable board that such a
270 partnership is mutually beneficial.

271 (* * *x) The authority shall provide a periodic update
272 regarding reform-based information technology initiatives to the
273 Chairmen of the House and Senate Accountability, Efficiency and
274 Transparency Committees.

275 From and after July 1, 2018, the expenses of this agency
276 shall be defrayed by appropriation from the State General Fund.
277 In addition, in order to receive the maximum use and benefit from
278 information technology and services, expenses for the provision of
279 statewide shared services that facilitate cost-effective
280 information processing and telecommunication solutions shall be
281 defrayed by pass-through funding and shall be deposited into the
282 Mississippi Department of Information Technology Services
283 Revolving Fund unless otherwise specified by the Legislature.
284 These funds shall only be utilized to pay the actual costs
285 incurred by the Mississippi Department of Information Technology
286 Services for providing these shared services to state agencies.
287 Furthermore, state agencies shall work in full cooperation with
288 the Board of the Mississippi Department of Information Technology
289 Services to identify computer equipment or services to minimize



290 duplication, reduce costs, and improve the efficiency of providing
291 common technology services across agency boundaries.

292 **SECTION 2.** This act shall take effect and be in force from
293 and after July 1, 2023.

