

By: Representative Coleman (65th)

To: Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1153

1 AN ACT TO CREATE THE ELECTRONIC GOVERNMENT SERVICES ACT; TO  
2 PROHIBIT GOVERNMENT AGENCIES FROM ENGAGING IN ANY ELECTRONIC  
3 COMMERCE SERVICE ACTIVITY THAT IS PROVIDED TO THE PUBLIC BY THE  
4 PRIVATE SECTOR; TO ALLOW A GOVERNMENT AGENCY TO PROVIDE ELECTRONIC  
5 COMMERCE SERVICES THAT DUPLICATE OR COMPETE WITH THOSE PROVIDED BY  
6 THE PRIVATE SECTOR AFTER THE AGENCY TAKES CERTAIN ACTIONS; AND FOR  
7 RELATED PURPOSES.

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

9 **SECTION 1.** This act may be cited as the Electronic  
10 Government Services Act.

11 **SECTION 2.** The Legislature finds and declares that the  
12 growth of private enterprise is essential to the health, welfare,  
13 and prosperity of this state and that government competes with the  
14 private sector when it provides goods and services to the public.  
15 It is the intent of the Legislature and the purpose of this act to  
16 protect economic opportunities for private industry against unfair  
17 competition by government agencies and enhance the efficient  
18 provision of public goods and services.

19 **SECTION 3.** As used in this act:

20 (a) "Electronic commerce services" means services that  
21 are the same, similar to or overlapping those information  
22 technology-based services provided by the private sector to the  
23 general public, e.g., any transaction completed over a computer  
24 network such as the buying of goods and services on the Internet.

25 (b) "Government agency" means the state, any unit of  
26 state government and any local government or other subdivision or  
27 district of the state, and shall not be construed to exclude any  
28 entity that is not majority owned as private property and that is



29 established under the Constitution, statutes, ordinances or any  
30 other order or action by any such entity or its officers.

31 (c) "Private enterprise" means an individual, firm,  
32 partnership, joint venture, corporation, association or any other  
33 legal entity engaging in the manufacturing, processing, sale,  
34 offering for sale, rental, leasing, delivery, dispensing,  
35 distributing or advertising of goods or services for profit.

36 (d) "Private sector" means two (2) or more competing  
37 privately owned companies.

38 **SECTION 4.** If the private sector provides electronic  
39 commerce services to the public, government shall not start or  
40 carry on any activity to provide or offer those services, expand  
41 similar services at government expense or provision. Nothing in  
42 this act prohibits government from providing electronic commerce  
43 services to the public in the absence of the private sector  
44 provision of those services.

45 **SECTION 5.** (1) A government agency may provide duplicative  
46 or competing electronic commerce services, provided that the head  
47 of the agency that proposes to provide duplicative or competing  
48 electronic commerce services to the general public provides public  
49 notice and the opportunity of the public to comment on the  
50 agency's proposed services. The public notice must be published  
51 once each week for two (2) consecutive weeks in a newspaper having  
52 general circulation throughout the state. The closing date for  
53 receipt of public comments must be not less than thirty (30) days  
54 after the last published notice. That notice shall include the  
55 agency's proposed findings of fact and conclusions of law  
56 describing the reasons why it believes it is necessary and in the  
57 public interest to provide duplicative or competing electronic  
58 commerce services. The agency must specify:

59 (a) A description of the agency's reasons for believing  
60 that the cost benefits of providing those services require the  
61 expenditure of public funds;



62 (b) Identification of unmet needs in the consumer  
63 marketplace that the government service offer would fulfill;

64 (c) A description of how the proposed government  
65 service offers would differ from those provided by the private  
66 sector; and

67 (d) An economic impact analysis demonstrating that the  
68 offering of proposed electronic commerce services by government  
69 will not be anticompetitive in its effect on the existing  
70 industry, and will not adversely impact or distort the private  
71 sector marketplace for the same or similar electronic commerce  
72 services.

73 (2) After receiving the comments of the public, if the head  
74 of the agency wishes to proceed with duplicative or competing  
75 electronic commerce services, the head of the agency must sign  
76 factual and legal conclusions enumerating all of the factors  
77 described in subsection (1) of these section. Those conclusions,  
78 along with all public comments related to the proposed electronic  
79 commerce services, shall be presented to the governing board of  
80 the Mississippi Department of Information Technology Services.  
81 The board must give its approval in writing before the agency may  
82 provide the duplicative or competing electronic commerce services.

83 (3) Any provider of electronic commerce services who resides  
84 in or does business in the state has standing to judicially  
85 challenge the provision of electronic commerce services by the  
86 government agency not made in conformance with this act under the  
87 state's procedures for hearing and resolving complaints filed  
88 under this act.

89 **SECTION 6.** Nothing contained in the act may be construed to  
90 prohibit a government agency from offering electronic government  
91 services to the general public before July 1, 2002.

92 **SECTION 7.** If any agency elects to provide electronic  
93 commerce services in a jurisdiction where a private enterprise  
94 delivers the same electronic commerce services, the agency shall



95 prepare and publish, on or before September 1, an annual report on  
96 its electronic commerce services. The report shall include  
97 disclosure of the amount, source, and cost of working capital  
98 utilized for its electronic commerce services, and it shall be  
99 sent to the Governor, the Lieutenant Governor, the Speaker of the  
100 House, and the chairmen of the House and Senate Appropriation  
101 Committees.

102         **SECTION 8.** This act shall take effect and be in force from  
103 and after July 1, 2002.

