

By: Representative Coleman (65th)

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1150

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 as 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 services, the head of the agency must sign factual and legal
76 conclusions enumerating all of the factors described in subsection
77 (1) of this section.

78 (3) Any provider of electronic commerce services who resides
79 within or does business in the state has standing to judicially
80 challenge the factual and legal sufficiency of the findings in
81 subsection (2) of this section under the state's procedures for
82 hearing and resolving complaints filed under this act.

83 **SECTION 6.** Nothing contained in the act may be construed to
84 prohibit a government agency from offering electronic government
85 services to the general public services before July 1, 2003.

86 **SECTION 7.** If any agency elects to provide electronic
87 services in a jurisdiction where a private enterprise delivers the
88 same electronic commerce services, the agency shall prepare and
89 publish, on or before September 1, an annual report on its
90 electronic commerce services. The report shall include disclosure
91 of the amount, source, and cost of working capital utilized for
92 its electronic services, and it shall be sent to the Governor, the
93 Lieutenant Governor, the Speaker of the House, and the chairmen of
94 the House and Senate Appropriations Committees.



95 **SECTION 8.** This act shall take effect and be in force from
96 and after July 1, 2003.

