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Information Technology

The most significant legislative changes in the information technology field this session were intended to improve the security, cost, and efficiency of IT processes. The legislature sought to streamline and standardize security requirements in a number of areas and made efforts to regulate contingency plan implementation by and reporting requirements for various state agencies. In the budget and appropriations arena, the legislature commissioned a number of studies to examine expenditures in state IT implementation and upgrade. In addition a number of bills were enacted to standardize procurement and transfer processes by allowing state agencies to make such transactions electronically.

The legislature also made significant changes to several sections of the state Help America Vote Act in order to bring it into compliance with the federal act of the same name. Much of the new language focuses on technology issues and is important in relationship both to how citizens of the state register to vote and to how the state collects and processes the registration information provided by those citizens.

IT Security Issues

The 2003 General Assembly continued to expand the authority and responsibility of the state Chief Information Officer (CIO) in ensuring the safety and security of state information technology resources. Earlier legislation had required the state CIO to establish an enterprise-wide set of security standards and to periodically review state agency adherence to those standards.

Security Compliance

S.L. 2003-153 (H 1003) further broadens the scope of state security compliance by requiring the CIO to assess each state agency's "security organization, network security architecture, and current expenditures for information technology security [G.S.147-33.82 e(1)]." At a minimum

this assessment must include a description of the agency's level of compliance with the enterprise security standards and an estimate of the funds necessary to enable an agency to fully comply with these standards.

No later than May 4, 2004, the Information Resources Management Commission and the state CIO must submit to the Joint Legislative Commission on Governmental Operations a public report that summarizes the security assessment findings, including an estimate of additional funding needed to bring agencies into compliance with the established standards. An annual update of the assessment must be submitted by January 15 in each subsequent year.

Notification Requirements

S.L. 2003-153 also creates some notification requirements for state agencies. Specifically, information technology security incidents (not defined in the statutes) must be reported to ITS within twenty-four hours of confirmation.

Background Checks

S.L. 2003-153 requires that state agency security liaisons—agency employees designated to work with the ITS security staff—be subject to criminal background checks given by the State Bureau of Investigation.

Disaster Recovery Plan

Finally, S.L. 2003-153 adds new G.S.147-33.89 (Business Continuity Planning) to Article 3D of Chapter 147. The new section requires each state agency to develop, review, and update a business and disaster recovery plan for its information technology resources. An agency disaster recovery planning team will be responsible for developing and administering the plan. As part of the plan development, the agency team must: (1) consider the organizational, managerial, and technical environments in which the plan will be implemented; (2) assess the types, likelihood, and impacts of various disasters; and (3) list protective measures to be implemented in preparation for a disaster. The plan is to be submitted annually to the Information Management Resource Commission (IRMC) and the state CIO.

Budget and Appropriations Issues

This year's appropriations act, S.L. 2003-284 (H 397), contains several special provisions affecting state information technology resources and funding.

Electronic Sale of Surplus Property

Section 18.6 of the appropriations act authorizes state agencies, local governments, and other public bodies to sell surplus items through electronic auctions. It amends G.S. 143-64.03 by adding a new subsection, which reads: "The state agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service." The section also adds new G.S. 143-64.6 (Disposal of Surplus Property), which reads: "A county, municipality, or other public body may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service." This new language duplicates the essence but not the details of existing law authorizing local governments to hold electronic auctions (G.S. 160A-270).

Section 18.6 of the appropriations act also creates new G.S. 15-14.1 (Sale of Property through Electronic Auction), which reads: "In addition to selling property as authorized in G.S. 15-13, a sheriff or police department may sell property in his or its possession through an electronic auction

service. The sheriff or police department shall comply with the publication and notice requirements provided in G.S. 15-12 through G.S. 15-14 prior to any sale under this section.” Prior to this change, sheriff and police departments had no authority to use electronic auctions to dispose of abandoned and confiscated property (although they could sell surplus items through electronic auctions).

IT Expenditures Study

Section 21.1 of the appropriations act requires the Office of State Budget and Management (OSBM) to study information technology expenditures across state government, especially as regards duplicate IT expenditures, operations, and inventory. OSBM is to consider and recommend cost-saving strategies that might be implemented in state agency IT operations by addressing whether the current IT budget and organizational structure is the most efficient or if alternate arrangements would be more economical. In consultation with ITS and the IRMC, OSBM must prepare at least three alternate budget transition plans for these agencies. Two plans must consider making all or portions of the ITS and IRMC budgets general fund appropriations, to be reimbursed by agency receipts for the ITS services utilized. The third must consider maintaining the two budgets as internal services funds but transferring the responsibility for budget approval from the IRMC to the General Assembly. OSBM must report its findings by April 1, 2004, to the Joint Legislative Commission on Governmental Operations, the chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

Multiyear IT Maintenance Agreements

This year’s appropriations act also provides for a pilot project involving multiyear IT maintenance agreements. Section 21.2 permits the state controller to authorize ITS to purchase up to four two-year infrastructure maintenance agreements whose terms require full payment up front. Prior to this authorization, the state controller must ensure that the agreement is more cost-effective than an arrangement involving a one-year term, that any savings are passed along to ITS users in the form of lower rates, and that the agreement complies with all applicable statutes and rules. ITS must refund any excess revenue to its customers as required by the federal Office of Management and Budget Circular A-87. Within sixty days of authorization, the state controller must provide full justification of the authorization to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

The Help America Vote Compliance Act

S.L. 2003-226 (H 842) (the state HAVA compliance act) amends and rewrites several sections of G.S. 163 concerning the elections process in North Carolina. The act seeks to ensure that the election systems and procedures used in the state’s elections comply with the requirements for federal elections set forth in the federal Help America Vote Act of 2002, P. L. 107-252, 116 Stat. 1666 (2002), codified at 42 U.S.C. Sections 15481-15485.

Many of the amendments affect sections and subsections within G.S. 163 that involve IT issues. These are listed below.

Electronic Records of Voter Registration

G.S. 163-82.10 regulates the creation of the official record for voter registration purposes. As now amended it provides that the statewide computerized voter registration system constitutes the official voter registrations list. The state HAVA compliance act adds new G.S. 163-82.10(a)(1) to provide that a voter’s registration application form may be either paper or electronic.

Acceptance of Electronic Signatures

G.S. 163-82.6 outlines the process to be used for acceptance of voter registration application forms. It imposes, among other things, standards for valid signatures. The state HAVA compliance act rewrites Subsection (b) to provide that an electronically captured image of a voter's signature on an electronic voter registration form supplied by a state agency shall be considered a valid signature for all purposes for which a signature on a paper voter registration form would be used.

Establishment of Statewide Computerized Voter Registration

The state HAVA compliance act rewrites G.S. 163-82.11. Generally this section requires the State Board of Elections (SBE) to develop and implement a statewide computerized voter registration system. The changes to this section primarily involve making a shift from individual county voter registration systems to a single statewide registration system. As amended G.S. 163-82.11 now does the following:

- Subsection (a) (Statewide System as Official List), provides that the statewide computerized voter registration system shall serve as the single system for storing and managing the official list of registered voters in the state. The system is also to supply the official voter registration list for the conduct of all elections in the state.
- Subsection (b) (Uses of Statewide System), allows each county board of elections to
 - verify that an applicant to register is not also registered in another county,
 - be automatically notified when a registered voter registers to vote in another county, and
 - automatically receive data about a person who has applied to vote at a DMV office or at another public agency authorized to accept voter registration applications.
- Subsection (c) (Compliance with Federal Law), requires the SBE to update the statewide voter registration list to comply with Section 303(a) of the federal Help America Vote Act of 2002.
- Subsection (d) (Role of County and State Boards of Elections), provides that rather than maintaining its own computer file of registered voters, each county must use the statewide computerized voter registration system to maintain its records. This subsection also eliminates the earlier requirement that the SBE and the county boards of elections maintain duplicate files of all registered voters.

Promulgation of Rules Relating to Computerized Voter Registration

G.S. 163-82.12 has required the SBE to make the rules necessary to administer the statewide voter registration system and has detailed the scope of these rules. The state HAVA compliance act amends this section to require the SBE to make the guidelines (instead of rules) necessary to administer the system and to obligate all county boards of elections to follow these guidelines and cooperate with the SBE in their implementation. The guidelines are to:

- establishing, developing, and maintaining a computerized central voter registration file.
- linking the central file through a network to computerized voter registration files in each county.
- interacting with the computerized driver's license records of the DMV and with the computerized records of other public agencies authorized to accept voter registration applications.
- protecting and securing the data.
- converting current county voter registration records to computer formats compatible with the statewide computerized registration system.
- creating the means by which the statewide system can be used to determine whether the voter identification information provided by an individual is valid.
- enabling the statewide system to interact electronically with the DMV system for purposes of validating identification information.

- creating the means by which the DMV can provide a real-time interface for the validation of driver's license numbers and the last four digits of social security numbers.
- creating the means by which the statewide system can assign a unique identifier to each legally registered voter in the state.

Voter Registration at the DMV

The state HAVA compliance act adds Subsection (b) (Coordination on Data Interface) to G.S. 163-82.19. This new subsection provides that the Department of Transportation (DOT) and the SBE shall jointly develop and operate a computerized interface that will match information in the statewide voter registration system database to the driver's license information held by the DMV to the extent required to enable the SBE and the DOT to verify information provided on voter registration applications. This new interface must comply with Section 303 of the federal Help America Vote Act of 2002.

E-NC Authority

During the 2000 session, the legislature created the Rural Internet Access Authority (RIAA) to facilitate Internet access throughout rural North Carolina. The authority had a sunset date of December 31, 2003. S.L. 2003-425 (H 1194) establishes the e-NC Authority as the successor entity to the RIAA; its sunset is to be December 31, 2006. The RIAA has largely accomplished its goals and the e-NC Authority will "continue and conclude" the work of the RIAA.

Creation

S.L. 2003-425 creates the fifteen-member e-NC Authority within the Department of Commerce. Its charge will be to promote, manage, oversee, and monitor efforts to provide rural counties and distressed urban areas with high-speed broadband Internet access, as defined by the Federal Communications Commission. The authority will also serve as the central Internet access planning body for rural and urban distressed areas and is to communicate and coordinate its efforts with state, regional, and local agencies. Its membership will include as ex officio, nonvoting members the executive directors of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners (or their designees), the Secretary of State, the state CIO, the President of the North Carolina Rural Center, and the Executive Director of the North Carolina Justice and Community Development Center.

Duties and Responsibilities

S.L. 2003-425 specifies that the e-NC Authority will be responsible for

- monitoring and safeguarding RIAA investments and contracts.
- maintaining a Web site relating to current and future telecommunications and Internet services and including information about public access sites and digital literacy training.
- continuing efforts to ensure that affordable broadband Internet access is available in rural and distressed urban areas.
- attracting and coordinating federal, foundation, and corporate funding for regional and statewide technology initiatives and assisting local governments, including e-communities, in obtaining grants to enhance their technology infrastructure.
- proposing funding for incentives to attract private sector investments that will help the authority achieve its goals and objectives.
- providing leadership, coordination, and support for efforts targeting technology-based economic development.

- providing leadership, coordination, and support for telecommunications policy assessments relating to Internet access in rural counties and urban distressed areas.
- promoting collaborative technology projects, programs, and activities to generate technology-based economic development.
- encouraging the development of replicable and scalable Internet applications in government, health care, education, and business settings.
- promoting constitutionally valid protective mechanisms to limit electronic distribution of obscene material to children via the Internet.

The act also specifies that the authority does not have the power to impose any charge, surcharge, or fees on telephone or telecommunications services.

Miscellaneous

Electronic Signatures and Public Agencies

S.L. 2003-233 (S 622) reconciles the provisions of three earlier pieces of legislation to make clear that all electronic signatures created pursuant to law, even those that require attestation by a notary, may be accepted by public agencies. Section 1 amends G.S. 66-58.4 (Use of Electronic Signatures) to clarify that public agencies may accept signatures as provided in Article 11A (Electronic Commerce in Government Act) or Article 40 [Uniform Electronic Transactions Act (UETA)] of G.S. 66 or pursuant to other law [primarily the Federal Electronic Signatures in Global and National Commerce Act (ESIGN)]. Section 1 also removes from the Electronic Commerce in Government Act the prohibition on electronic signatures where notarization is required, making that act consistent with UETA. These changes give local governments and state agencies greater flexibility to match the most appropriate method of accepting electronic signatures to their business needs.

Section 2 of S.L. 2003-233 amends the Electronic Commerce Act to provide that this act does not affect the validity, presumptions, or burdens of proof of UETA or other law. Section 4 of S.L. 2003-233 authorizes the Secretary of State to study what changes might be necessary in the notary public law to facilitate electronic notarization and requires that a report summarizing his or her recommendations be made to the General Assembly in the 2004 short session.

IT Legacy Systems Study

S.L. 2003-172 (H 941) creates new G.S. 147-33.89 to require ITS, in conjunction with the IRMC, to conduct a two-phase analysis of the state's IT legacy systems. In the first phase of the analysis, ITS and the IRMC will assess the existing legacy systems themselves. In the second phase, the two groups will develop a plan to ascertain the resources, funds, and time frame necessary for state agencies to "progress to more modern information technology systems."

Legacy system assessment. Subsection (b) of S.L. 2003-172 outlines the requirements for the legacy system assessment phase of the analysis. It provides that ITS shall

- examine the hierarchical structure within and the interrelationships between state agency legacy systems.
- catalog and analyze the portfolio of legacy applications in use in state agencies and consider the extent to which new applications could be used concurrently with, or should replace, legacy systems.
- consider issues related to the migration from legacy environments to Internet-based and client/server environments and to the availability of programmers and other IT professionals possessing the skills necessary to assist in this migration.
- study any other issues relative to the assessment of legacy information technology systems in state agencies.

ITS should complete the assessment phase and report its findings to the Joint Legislative Commission on Governmental Operations by March 1, 2004. ITS must also make annual reports on “these matters” to the commission by March 1 of each year.

IT modernization planning requirements. The requirements for the second phase of the study (ascertainment of the funds, resources, and time necessary for the modernization of state agency IT processes) are outlined in Subsection (c) of S.L. 2003-172. ITS should complete this phase by January 31, 2005, and report its findings to the 2005 General Assembly. Although the act does not specify the requirements for this phase, it does provide that ITS shall include in its findings and recommendations a cost estimate and time line for the modernization of state agency legacy IT systems. ITS is also to submit an ongoing and updated report of its estimates to the General Assembly on the opening day of each biennial session.

Universal Telephone Service Provider

G.S. 62-110 broadly outlines the rules and procedures necessary for the North Carolina Utilities Commission to issue certificates of convenience and necessity to utility franchises. Among other things, the statute authorizes the commission to adopt rules it finds necessary to provide for the continued development and encouragement of “universally available telephone service at reasonably affordable rates.”

Evolving trends. S.L. 2003-99 (H 913) rewrites parts of Subsection (f)(2) of G.S. 62-110 to require the commission, when developing rules to define “universal service,” to consider evolving trends in telecommunications services and to take into consideration the extent to which such services provide social benefits to the public at a reasonable cost. This additional language is important because it recognizes the need to expand the definition of universal service to encompass access to the Internet and to high-speed communications networks.

Indefinite time line for final rules adoption. S.L. 2003-99 removes the July 1, 2003, deadline for the commission to adopt final rules concerning the definition and provision of universal service, the entity that should be the universal service provider, and the means for funding universal service (whether through interconnection rates or another mechanism). Instead of proposing a new deadline, the act allows the commission to determine, consistent with the public interest, the time frame in which it wants to conduct an investigation for the purpose of adopting the final rules.

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