

CHAPTER 231

GOVERNMENT - STATE

SENATE BILL 07-254

BY SENATOR(S) May R., Groff, and Shaffer;
also REPRESENTATIVE(S) Buescher, Frangas, Gibbs, and Todd.

AN ACT

CONCERNING THE MANAGEMENT OF INFORMATION TECHNOLOGY RESOURCES IN STATE AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 8-43-104 (2), Colorado Revised Statutes, is amended to read:

8-43-104. Electronic filings - rules. (2) The director may promulgate rules concerning electronic filing of documents, forms, or notices in accordance with article 4 of title 24, C.R.S. Such rules shall be consistent with any ~~rules promulgated by the secretary of state pursuant to section 24-71.3-118, C.R.S.~~ POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, C.R.S.

SECTION 2. 24-4-103 (12), Colorado Revised Statutes, is amended to read:

24-4-103. Rule-making - procedure - repeal. (12) All rules of any agency that have been submitted to the attorney general under the provisions of subsection (8) of this section and the opinion of the attorney general, when issued, shall be filed in the office of the secretary of state. The secretary of state shall require that such rules be filed in an electronic format that complies with any requirements established pursuant to ~~sections 24-37.5-106 and 24-71.3-118~~ SECTION 24-37.5-106.

SECTION 3. 24-21-104 (3) (b), Colorado Revised Statutes, is amended to read:

24-21-104. Fees of secretary of state. (3) (b) The department of state shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs, including the cost of ~~implementing section 24-71.3-118 and~~ maintenance and improvements necessary for the distribution of electronic records; except that the department may reduce its fees to generate revenue in an amount less

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

than costs if necessary pursuant to section 24-75-402 (3). Such costs shall not include the costs paid by the amounts appropriated by the general assembly from the general fund to the department of state for elections pursuant to section 24-21-104.5. Such fees shall remain in effect for the fiscal year following the adjustment. All fees collected by said department, except moneys collected pursuant to article 55 of title 12, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund, which fund is hereby created. All moneys credited to the department of state cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the department of state cash fund shall be available for appropriation by the general assembly to the department of state in the general appropriation bill or pursuant to section 24-9-105 (2).

SECTION 4. 24-30-1603 (3), Colorado Revised Statutes, is amended to read:

24-30-1603. Functions of the GGCC. (3) (a) In accordance with ~~rules, standards, procedures, and policies adopted by the secretary of state pursuant to section 24-71.3-118 (2)~~ ANY POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, the GGCC shall adopt and implement standards, policies, and procedures for the use of electronic or digital signatures by governmental agencies where use of electronic or digital signatures is expressly authorized by law. ~~The secretary of state shall, prior to the adoption of any rules, standards, procedures, or policies for the use of electronic or digital signatures by governmental agencies, coordinate with the office of information technology on the development of such rules, standards, procedures, and policies.~~

(b) The executive director of each agency or department of state government, including institutions of higher education, shall designate a chief information officer who shall ensure compliance with the ~~rules adopted by the secretary of state.~~ POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103.

(c) The local authorities of any county, city, town, or city and county authorizing the use of digital or electronic signatures shall adopt rules, standards, policies, and procedures for their own use of electronic or digital signatures or shall ensure compliance with ~~the rules adopted by the secretary of state.~~ ANY POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103.

(d) (Deleted by amendment, L. 2006, p. 1521, § 90, effective June 1, 2006.)

SECTION 5. 24-37.5-106 (1) (a), (1) (c), (1) (e), and (1) (i), Colorado Revised Statutes, are amended, and the said 24-37.5-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-37.5-106. Chief information officer - duties and responsibilities. (1) The chief information officer shall:

(a) Monitor trends and advances in communication and information resources and data processing, direct and approve a comprehensive, statewide, four-year

planning process, and plan for the acquisition, management, and use of communication and information resources and data processing. The statewide information technology plan shall be updated annually and submitted to the governor, the speaker of the house of representatives, and the president of the senate. ~~In developing and updating such plans, the chief information officer shall consider the advice and recommendations of the commission on information management.~~

(c) In consultation with the executive director of the department of personnel, ~~and the commission on information management,~~ coordinate and direct the formulation and promulgation of policies, standards, specifications, and guidelines for communication and information resources, communication and information resources technologies, and data processing in state agencies, including, but not limited to, those required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies;

(e) ~~In consultation with the commission on information management,~~ Coordinate and direct the development of policies and procedures for the effective management of technology investments throughout their entire life cycle, including, but not limited to, project definition, procurement, development, implementation, operation, performance evaluation, and enhancement or retirement;

(i) ~~In consultation with the commission on information management,~~ Coordinate and direct the establishment of statewide standards for the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the state;

(n) ADOPT STANDARDS AND CRITERIA FOR THE PROCUREMENT OF ADAPTIVE TECHNOLOGY BY STATE AGENCIES FOR THE USE OF INDIVIDUALS WHO ARE BLIND OR VISUALLY IMPAIRED AS SPECIFIED IN ARTICLE 85 OF THIS TITLE.

SECTION 6. Part 1 of article 37.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

24-37.5-108. [Formerly 24-37.5-203] Statewide communications and information infrastructure - establishment - duties. (1) With regard to the statewide communications and information infrastructure, the ~~commission on information management~~ OFFICE shall have the following duties:

(a) To review and make recommendations on requirements for the statewide communications and information infrastructure based on present and future user applications;

(b) To review existing portions of the statewide communications and information infrastructure to determine the areas of the state in which they exist and whether the existing portions are adequate and usable for present and future user applications;

~~(c) and (d) (Deleted by amendment, L. 2006, p. 1732, § 9, effective June 6, 2006.)~~

~~(e)~~ (c) To review and make recommendations related to ongoing use of the statewide communications and information infrastructure;

~~(f) (Deleted by amendment, L. 2006, p. 1732, § 9, effective June 6, 2006.)~~

~~(g)~~ (d) To advise state agencies on the risks, issues, and concerns related to the agency's communication and data processing infrastructure that the agency has identified in the communications and data processing plan prepared pursuant to section 24-37.5-106 (1) (b).

24-37.5-109. [Formerly 24-37.5-204] Status of state agencies. (1) State agencies shall:

(a) Supervise their communications and automated data processing systems;

(b) Comply with the rules, standards, plans, policies, and directives of the office;

(c) Comply with information requests of the office, the general assembly, and the joint budget committee; and

(d) Upon request of the general assembly or the joint budget committee, provide satisfactory evidence of said compliance.

SECTION 7. 24-30-1603 (1) (a) and (1) (d), Colorado Revised Statutes, are amended to read:

24-30-1603. Functions of the GGCC. (1) The GGCC shall perform the following functions:

(a) To provide computer, data entry, and systems development and programming services to those state departments, institutions, and agencies in the executive branch that have been so designated by the ~~commission on information management~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, after consulting with the affected entity, and to provide these same services to the legislative and judicial branches when so requested; except that services shall not be provided to any such entity unless such entity has funds available therefor;

(d) To advise the ~~commission on information management~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, on the capacity and utilization of the computer system in GGCC in an annual report on or before December 1 of each year, commencing with the calendar year 1987.

SECTION 8. 24-30-1606 (1) and (3), Colorado Revised Statutes, are amended to read:

24-30-1606. Department of personnel computer services revolving fund - service charges - pricing. (1) Users of GGCC services shall be charged by the department of personnel the full cost of the particular service, which shall include the cost of all material, labor, equipment, software, services, and overhead. Two months prior to the November 1 submission date as required by section 24-37-304, the executive director of the department ~~of personnel~~ shall establish, publish, and

distribute billing rates to user entities and other interested entities effective for the following fiscal year. The billing rates shall not be increased during the fiscal year. User charges shall be paid only out of items of appropriation made specifically for the purchase of services from either the department of personnel or from an alternative support source approved by the ~~commission on information management~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103. Agencies interested in purchasing services from the private sector shall work with the ~~commission on information management~~ OFFICE to develop bid specifications, which shall identify all services, requirements, and costs. All bids shall be consistent with the state's long-term data processing objectives. The bid process shall be completed so as to coincide with the ~~department of personnel's~~ DEPARTMENT'S rate publication date.

(3) The executive director of the department of personnel shall establish a policy of remaining competitive with the service provided by private industry with regard to the cost, timeliness, and quality of that service provided by the department. ~~of personnel~~: Agencies are encouraged to seek competitive bids from the private sector pursuant to subsection (1) of this section. If the department of personnel cannot meet the needs of any agency in any one of the said areas, the agency may seek services elsewhere ~~pursuant to part 2 of article 37.5 of this title~~. IN CONSULTATION WITH THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103.

SECTION 9. 24-37.5-105 (6), Colorado Revised Statutes, is amended to read:

24-37.5-105. Office - responsibilities. (6) Not later than February 1, 2007, and no later than February 1 of each calendar year thereafter, the office shall submit a plan to ~~the commission on information management created in section 24-37.5-201~~ (2)(a); the joint budget committee of the general assembly, the business, labor, and technology committee of the senate and the business affairs and labor committee of the house of representatives, or any successor committees, and each legislative committee of reference of the senate and the house of representatives with oversight over a state agency that has commenced a major automation system development project. The plan shall describe the compliance by the office with the requirements of subsections (4) and (5) of this section in connection with major automation system development projects. In the plan, the office shall also describe any significant automation system development projects currently in progress and the extent to which the projects identified are meeting the requirements of subsections (4) and (5) of this section for the prior calendar year.

SECTION 10. 24-37.5-404.5 (1), Colorado Revised Statutes, is amended to read:

24-37.5-404.5. Institutions of higher education - information security plans. (1) On or before July 1, 2007, THE DEPARTMENT OF HIGHER EDUCATION AND each institution of higher education, in coordination with the ~~Colorado commission on higher education~~, DEPARTMENT, shall develop an information security plan. The information security plan shall provide information security for the communication and information resources that support the operations and assets of the DEPARTMENT AND THE institution of higher education.

SECTION 11. 24-37.5-406, Colorado Revised Statutes, is amended to read:

24-37.5-406. Reporting. The chief information security officer shall report to the governor and the ~~commission on information management~~ OFFICE on a quarterly basis concerning the implementation of the provisions of this part 4.

SECTION 12. The introductory portion to 24-37.7-102 (2) and 24-37.7-102 (2) (d) and (3), Colorado Revised Statutes, are amended, and the said 24-37.7-102 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-37.7-102. Statewide internet portal authority - creation - board. (2) The governing body of the authority shall be a board of directors that shall consist of the following ~~eleven~~ THIRTEEN voting members:

(d) (I) ~~Two~~ THREE members from the private sector who exhibit a background in information management and technology and who are users of electronic information, products, and services or information technology services that are offered through the private sector appointed by the governor with the consent of the senate.

(II) The members from the private sector shall serve for terms of four years each; except that, of those members first appointed to the board, the terms of office shall be as follows:

(A) One shall be appointed for two years; and

(B) One shall be appointed for three years.

(h) THE CHIEF INFORMATION OFFICER OF THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

(3) ~~The chief information officer of the office of information technology shall serve as an ex officio nonvoting member of the board.~~

SECTION 13. 24-46.1-101 (4) and (6), Colorado Revised Statutes, are amended to read:

24-46.1-101. Economic development central information system - information - availability. (4) On or before July 1, 1997, each department or agency may provide the information such as that identified in subsection (3) of this section that it provides for general public use to the state library and adult education office OF THE DEPARTMENT OF EDUCATION for inclusion in the central information system and distribution through the access Colorado library and information network. Each department or agency shall provide the information in an open system architecture in cooperation with the ~~commission on information management~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, and shall update the information as needed to keep the information current.

(6) The state library and adult education office OF THE DEPARTMENT OF EDUCATION shall work with the ~~commission on information management~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, to ensure each department or agency supplies its data to the access Colorado library and information network in the open system architecture, the confidentiality of

proprietary information, and the integrity of state computer system security.

SECTION 14. 24-71.3-118 (1) and (2), Colorado Revised Statutes, are amended to read:

24-71.3-118. Acceptance and distribution of electronic records by governmental agencies - rules. (1) Except as otherwise provided in section 24-71.3-112 (6), each department, board, commission, authority, institution, or instrumentality of the state IN CONSULTATION WITH THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, AND THE STATE ARCHIVIST AND IN ACCORDANCE WITH POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE may determine the extent to which such department, board, commission, authority, institution, or instrumentality shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. A county, municipality, or other political subdivision, or any of their instrumentalities, shall have the general power, in relation to the administration of the affairs of a county, municipality, or of their political subdivision, or any of their instrumentalities, to determine the extent to which it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) ~~Except in relation to electronic payments, which shall be governed by the state treasurer, to the extent that a department, board, commission, authority, institution, or instrumentality of this state uses electronic records and electronic signatures under subsection (1) of this section, the secretary of state, giving due consideration to security, shall by rule specify:~~

(a) ~~The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;~~

(b) ~~If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;~~

(c) ~~Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and~~

(d) ~~Any other required attributes for electronic records that are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.~~

SECTION 15. 24-71.3-119, Colorado Revised Statutes, is amended to read:

24-71.3-119. Interoperability. The ~~secretary of state~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, may, in adopting ~~rules~~

~~promulgated~~ POLICIES, STANDARDS, AND GUIDELINES pursuant to section 24-71.3-118, encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, ~~such rules~~ THOSE POLICIES, STANDARDS, AND GUIDELINES may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

SECTION 16. 24-72-202 (6) (b) (X), (6) (b) (XI), and (6) (b) (XII), Colorado Revised Statutes, are amended to read:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(X) The information security plan of a public agency developed pursuant to section 24-37.5-404 OR OF THE DEPARTMENT OF HIGHER EDUCATION OR AN INSTITUTION OF HIGHER EDUCATION DEVELOPED PURSUANT TO SECTION 24-37.5-404.5;

(XI) Information security incident reports prepared pursuant to ~~section 24-37.5-404 (2) (e)~~ SECTION 24-37.5-404 (2) (e) OR 24-37.5-404.5 (2) (e); or

(XII) Information security audit and assessment reports prepared pursuant to ~~section 24-37.5-403 (2) (d)~~ SECTION 24-37.5-403 (2) (d) OR 24-37.5-404.5 (2) (d).

SECTION 17. The introductory portion to 24-85-103 (1) and 24-85-103 (2), Colorado Revised Statutes, are amended to read:

24-85-103. Nonvisual access standards. (1) ~~On or before February 1, 2001,~~ The ~~commission~~ CHIEF INFORMATION OFFICER IN THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, shall ~~develop~~ MAINTAIN nonvisual access standards for information technology systems employed by state agencies that:

(2) The ~~commission~~ CHIEF INFORMATION OFFICER IN THE OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, shall consult with state agencies and representatives of individuals who are blind or visually impaired in ~~developing~~ MAINTAINING the nonvisual access standards described in subsection (1) of this section and the procurement criteria described in section 24-85-104.

SECTION 18. 24-85-104 (1), Colorado Revised Statutes, is amended to read:

24-85-104. Procurement requirements - criteria - implementation. (1) ~~On or before July 1, 2001,~~ The ~~commission~~ OFFICE OF INFORMATION TECHNOLOGY, CREATED IN SECTION 24-37.5-103, shall approve minimum standards and criteria to be used in approving or rejecting procurements by state agencies for adaptive technologies for nonvisual access uses. ~~in compliance with section 24-37.5-202.~~

SECTION 19. 24-102-101, Colorado Revised Statutes, is amended to read:

24-102-101. Authority and duties of the executive director. Subject to the provisions of part 4 of this article, the executive director of the department of personnel has the authority and responsibility to promulgate rules, consistent with this code, governing the procurement and disposal of any and all supplies, services, and construction to be procured by the state, except for surplus state property as provided in section 17-24-106.6, C.R.S., and except as provided in ~~part 2 of article 37.5 and~~ part 4 of article 82 of this title. The executive director shall consider and decide matters of policy within the provisions of this code.

SECTION 20. 42-2-118 (1.5) (d) (I), Colorado Revised Statutes, is amended to read:

42-2-118. Renewal of license in person or by mail - donations to organ and tissue donation awareness fund - repeal. (1.5) (d) To implement electronic renewal of a driver's license pursuant to this section, the department shall:

(I) ~~Submit to the commission on information and technology within~~ the office of information technology created in the office of the governor for ~~the commission's~~ review and approval the department's plan for the renewal of a driver's license by electronic means;

SECTION 21. Repeal of provisions being relocated in this act. 24-37.5-203 and 24-37.5-204, Colorado Revised Statutes, are repealed.

SECTION 22. Repeal. 16-20.5-102 (5), 24-37.5-201, 24-37.5-202, and 24-85-102 (3), Colorado Revised Statutes, are repealed.

SECTION 23. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 17, 2007