

that a person who makes an information technology purchase or sale and intentionally fails to comply with the certification requirements is in violation of the provisions of the Procurement Code and the person shall be individually liable to the state for the amount of the purchase and civil penalties as provided under the procurement code.

Significant Issues

The House Judiciary Committee amendment to change the penalty provision of this bill may negatively impact the enforcement of the commission certification requirement. A person may be in compliance with provisions of the procurement code, but may fail to comply with commission certification requirements. The procurement code has no penalty provisions for a person who violates the commission certification requirement. Thus, a person who fails to comply with the commission certification requirements may avoid prosecution under provisions of the procurement code.

Synopsis of Original Bill

The Senate Judiciary Committee Substitute for Senate Bill 244 amends the Information Technology Management Act (Section 15-1C NMSA 1978) as follows:

- Changes the information technology commission membership from thirteen to fifteen by changing members appointed by the governor from four to five, changes local government members from advisory to voting status, changes the CIO from voting status to advisory, and adds two staff from the Legislative Finance Committee and Legislative Council Service as advisory members.
- Clarifies the role of the CIO to strengthen the CIO's oversight and approval authority over all information technology. Changes the name of the agency to the Office of the Chief Information Officer.
- Improves upon the current quality assurance process, whereby the commission certifies information technology projects and releases funding in phases, regardless of funding source. A penalty provision of misdemeanor is specified for a person intentionally violating the commission's certification process. This provision parallels the procurement code. Clarifies that education, judicial and legislative agencies are encouraged to participate in the IT management act, but are not required.
- Sunset review of this agency is extended from July 1, 2005 to July 1, 2009.

FISCAL IMPLICATIONS

The bill does not include an appropriation. However, recurring costs will be absorbed within the Information Technology Management Office base budget.

ADMINISTRATIVE IMPACT

The information technology commission must adopt rules for certifying significant information technology projects by phases. The office of the CIO will propose rules to the commission and provide consulting services to agencies related to project management and the commission certification process. Agencies remain responsible for implementing effective project management practices that focus on identifying and mitigating risks early on in the project cycle, including

certification requirements adopted by the commission.

TECHNICAL ISSUES

Stakeholders, including the commission, the state CIO, agency information technology management, the governor's office and the legislative information technology oversight committee held discussions and communications beginning in October 2002 to identify technical issues with the current oversight process. Technical issues focus on identifying appropriate locations and levels of control to enhance the current oversight process of large information technology projects without disabling agencies from accomplishing their goals and objectives.

EDP/njw:yr