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HOUSE BILL 547

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; ELIMINATING THE DEPARTMENT OF INFORMATION TECHNOLOGY AND TRANSFERRING ITS FUNCTIONS TO THE GENERAL SERVICES DEPARTMENT; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTIONS OF LAW BY REPEALING LAWS 2007, CHAPTER 288, SECTIONS 2 AND 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-17-3 NMSA 1978 (being Laws 1983, Chapter 301, Section 3, as amended) is amended to read:

"9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND CREATION OF DIVISIONS.--

A. The "general services department" is created.
The department shall consist of those divisions created by law

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1 or executive order, as modified by executive order pursuant to
2 Subsection C of this section, including:

- 3 (1) the administrative services division;
- 4 (2) the building services division;
- 5 (3) the property control division;
- 6 (4) the purchasing division;
- 7 (5) the risk management division; ~~and~~
- 8 (6) the transportation services division; and
- 9 (7) the information technology division.

10 B. The secretary of general services is empowered
11 to organize the department and the divisions specified in
12 Subsection A of this section and may transfer or merge
13 functions between divisions in the interest of efficiency and
14 economy.

15 C. The governor is empowered to merge divisions of
16 the department or to create additional divisions by executive
17 order in the interest of efficiency or economy."

18 SECTION 2. A new section of the Chapter 15 NMSA 1978 is
19 enacted to read:

20 "[NEW MATERIAL] INFORMATION TECHNOLOGY DIVISION--DUTIES
21 AND GENERAL POWERS.--

22 A. The information technology division of the
23 general services department shall:

- 24 (1) review executive agency plans regarding
25 prudent allocation of information technology resources;

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1 reduction of duplicate or redundant data, hardware and
2 software; and improvement of system interoperability and data
3 accessibility among agencies;

4 (2) approve executive agency information
5 technology requests for proposals and other executive agency
6 requests that are subject to the Procurement Code, prior to
7 final approval;

8 (3) promulgate rules for oversight of
9 information technology procurement;

10 (4) approve executive agency information
11 technology contracts and amendments to those contracts,
12 including emergency procurements, sole source contracts and
13 price agreements, prior to approval by the department of
14 finance and administration;

15 (5) develop and implement procedures to
16 standardize data elements, determine data ownership and ensure
17 data sharing among executive agencies;

18 (6) verify compliance with state information
19 architecture and the state information technology strategic
20 plan before approving documents referred to in Paragraphs (2)
21 and (4) of this subsection;

22 (7) monitor executive agency compliance with
23 its agency plan, the state information technology strategic
24 plan and state information architecture and report to the
25 governor, executive agency management and the legislative

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1 finance committee on noncompliance;

2 (8) develop information technology cost
3 recovery mechanisms and information systems rate and fee
4 structures of state agencies and other public or private sector
5 providers and make recommendations to the information
6 technology rate committee;

7 (9) provide technical support to executive
8 agencies in the development of their agency plans;

9 (10) ensure the use of existing public or
10 private information technology or telecommunications resources
11 when the use is practical, efficient, effective and financially
12 prudent and is in compliance with the Procurement Code;

13 (11) review appropriation requests related to
14 executive agency information technology requests to ensure
15 compliance with agency plans and the state information
16 technology strategic plan and make written recommendations by
17 November 14 of each year to the department of finance and
18 administration and by November 21 of each year to the
19 legislative finance committee, the appropriate interim
20 legislative committee and the information technology
21 commission; provided, however, that the recommendations to the
22 legislative committees and the commission have been agreed to
23 by the information technology division and the department of
24 finance and administration;

25 (12) promulgate rules to ensure that

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1 information technology projects satisfy criteria established by
2 the division and are phased in with funding released in phases
3 contingent upon successful completion of the prior phase;

4 (13) provide oversight of information
5 technology projects, including ensuring adequate risk
6 management, disaster recovery and business continuity practices
7 and monitoring compliance for information technology projects
8 that affect multiple agencies;

9 (14) conduct reviews of information technology
10 projects and provide written reports to the appropriate
11 legislative oversight bodies;

12 (15) conduct background checks on division
13 employees and prospective division employees that have or will
14 have administrative access or authority to sensitive,
15 confidential or private information or the ability to alter
16 systems, networks or other information technology hardware or
17 software; and

18 (16) perform any other information technology
19 function assigned by the governor or the secretary of general
20 services.

21 B. Each executive agency shall submit an agency
22 information technology plan to the information technology
23 division in the form and detail required by the division. Each
24 executive agency shall conduct background checks on agency or
25 prospective agency employees that have or will have

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1 administrative access or authority to alter systems, networks
2 or other information technology hardware or software.

3 C. A state agency that receives an invoice from the
4 information technology division for services rendered to the
5 agency shall have thirty days from receipt of the invoice to
6 pay the division or to notify the division if the amount of the
7 invoice is in dispute. The agency shall have fifteen days from
8 its notification of dispute to the division to present its
9 reasons in writing and request an adjustment. The division
10 shall have fifteen days from its receipt of the reasons for
11 dispute to notify the agency of its decision. If the division
12 and the agency do not agree on a resolution, the secretary of
13 finance and administration shall make a determination on the
14 amount owed by the agency to the division. If the agency has
15 not paid the division or notified the division of a dispute
16 within thirty days of receipt of the invoice, the division
17 shall notify the department of finance and administration and
18 request that the department of finance and administration
19 transfer funds from the agency to the division to satisfy the
20 agency's obligation.

21 D. The information technology division shall
22 prepare a state information technology strategic plan for the
23 executive branch and update it at least once every three years,
24 which plan shall be available to agencies by July 31 of each
25 year. The plan shall provide for the:

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1 (1) interchange of information related to
2 information technology among executive agencies;

3 (2) coordination among executive agencies in
4 the development and maintenance of information technology
5 systems; and

6 (3) protection of the privacy and security of
7 individual information as well as of individuals using the
8 state's information technology systems.

9 E. The information technology division, in
10 conjunction with the secretary of general services, may apply
11 for and receive, with the governor's approval, in the name of
12 the general services department, any public or private funds,
13 including United States government funds, available to the
14 information technology division or general services department
15 to carry out the division's programs, duties or services.

16 F. Where information technology functions of
17 executive agencies overlap or a function assigned to one agency
18 could better be performed by another agency, the information
19 technology division may recommend appropriate legislation to
20 the next session of the legislature for its approval.

21 G. The information technology division may make and
22 adopt such reasonable procedural rules as may be necessary to
23 carry out the duties of the division and its requirements and
24 standards for the executive branch's information technology
25 needs, functions, systems and resources, including:

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- 1 (1) information technology security;
- 2 (2) approval for procurement of information
- 3 technology that exceeds an amount set by rule;
- 4 (3) detail and format for the agency
- 5 information technology plan;
- 6 (4) acquisition, licensing and sale of
- 7 information technology; and
- 8 (5) requirements for agency information
- 9 technology projects and related plan, analysis, oversight,
- 10 assessment and specifications.

11 H. Unless otherwise provided by statute, all rules

12 promulgated by the information technology division shall comply

13 with the procedures provided in Subsection E of Section 9-17-5

14 NMSA 1978.

15 I. As used in this section:

- 16 (1) "information technology" means computer
- 17 hardware and software and ancillary products and services,
- 18 including:
- 19 (a) systems design and analysis;
- 20 (b) acquisition, storage and conversion
- 21 of data;
- 22 (c) computer programming;
- 23 (d) information storage and retrieval;
- 24 (e) voice, radio, video and data
- 25 communications;

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- 1 (f) requisite systems;
2 (g) simulation and testing; and
3 (h) related interactions between users
4 and information systems; and

5 (2) "information technology project" means the
6 purchase, replacement, development or modification of a
7 hardware or software system."

8 SECTION 3. Section 9-27-12 NMSA 1978 (being Laws 2009,
9 Chapter 146, Section 6) is recompiled in Chapter 15 NMSA 1978
10 and is amended to read:

11 "HUMAN RESOURCES--ACCOUNTING AND MANAGEMENT REPORTING.--
12 The information technology division of the general services
13 department, in conjunction with the general services
14 department, shall:

15 A. enter into a memorandum of understanding with
16 the department of finance and administration for the joint
17 design, development, acquisition and implementation of the
18 statewide human resources, accounting and management reporting
19 system or its successor system;

20 B. include a per employee assessment per agency
21 that is sufficient to provide for the support, operation,
22 maintenance, software upgrade or equipment replacement of the
23 statewide human resources, accounting and management reporting
24 system or its successor system; and

25 C. ensure that an amount equal to at least the

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1 annual depreciation and amortization be deposited in a
2 separately identifiable account for software upgrades and
3 equipment replacement."

4 SECTION 4. Section 9-27-19 NMSA 1978 (being Laws 1975,
5 Chapter 214, Section 4, as amended) is recompiled in Chapter 15
6 NMSA 1978 and is amended to read:

7 "TRANSFER OF PROPERTY--CUSTODY AND CONTROL.--The radio
8 equipment purchased in accordance with Laws 1972, Chapter 74 by
9 the property control division of the general services
10 department [~~is~~] and then transferred to the department of
11 information technology is transferred to the information
12 technology division of the general services department. The
13 [~~department~~] information technology division has the custody
14 and control of the transferred radio equipment."

15 SECTION 5. Section 9-27-21 NMSA 1978 (being Laws 1963,
16 Chapter 181, Section 2, as amended) is recompiled in Chapter 15
17 NMSA 1978 and is amended to read:

18 "CENTRAL TELEPHONE SERVICES--STAFF--BUDGET.--The
19 [~~telecommunications bureau of the enterprise services~~]
20 information technology division of the general services
21 department shall provide the staff and material necessary to
22 properly and adequately operate the central telephone system.
23 The budget for the central telephone system shall be approved
24 as part of the total operating budget of the department."

25 SECTION 6. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,

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1 APPROPRIATIONS, PERSONNEL AND PROPERTY--CONTRACTUAL

2 OBLIGATIONS--REFERENCES IN LAW.--

3 A. On July 1, 2011, all functions, appropriations,
4 personnel, money, records, furniture, equipment and other
5 property of the department of information technology shall be
6 transferred to the general services department.

7 B. On July 1, 2011, contractual obligations of the
8 department of information technology are binding on the general
9 services department.

10 C. On July 1, 2011, all references in law to the
11 department of information technology shall be deemed to be
12 references to the information technology division of the
13 general services department.

14 D. On July 1, 2011, all references in law to the
15 secretary of information technology shall be deemed to be
16 references to the director of the information technology
17 division of the general services department.

18 SECTION 7. TEMPORARY PROVISION--RECOMPILATION.--Sections
19 9-27-11, 9-27-13 through 9-27-18 and 9-27-22 through 9-27-25
20 NMSA 1978 (being Laws 2008, Chapter 84, Section 2, Laws 1977,
21 Chapter 247, Sections 23 and 24, Laws 1997, Chapter 263,
22 Section 1, Laws 1970, Chapter 71, Section 1, Laws 1966, Chapter
23 32, Section 3, Laws 1971, Chapter 115, Section 2 and Laws 1963,
24 Chapter 181, Sections 3 through 6, as amended) are recompiled
25 in Chapter 15 NMSA 1978.

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1 **SECTION 8. REPEAL.--**

2 A. Laws 2007, Chapter 288, Sections 2 and 3 are
3 repealed.

4 B. Sections 9-27-1 through 9-27-10 NMSA 1978 (being
5 Laws 2007, Chapter 290, Sections 1 through 9 and 26, as
6 amended) are repealed.

7 **SECTION 9. EFFECTIVE DATE.--**The effective date of the
8 provisions of this act is July 1, 2011.