

HOUSE RESEARCH

Bill Summary

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Overview

Under current law, MNsure is exempt from some of the information technology laws administered by the Office of MN.IT Services (MN.IT). This bill repeals the exemptions, so that MNsure would be subject to the same laws administered by MN.IT that apply to other executive branch agencies.

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1 Application of other law. Strikes MNsure exemptions from the following laws administered by MN.IT, so that MNsure would be subject to these laws. (The full text of these laws is reproduced at the end of this summary.):

- 16E.01, subdivision 3, paragraph (b): MN.IT to determine when it is cost-effective for agencies to develop and use shared IT systems for delivery of electronic government services.
- 16E.03, subd.3 and 4: MN.IT to evaluate and approve agency IT projects, under evaluation procedures established by MN.IT.
- 16E.04, subd. 1, subd. 2(c), and subd. 3(b): MN.IT to establish policies and standards for purchase of IT systems and services. MN.IT to review and approve agency requests for grant funds with an IT component. Risk assessment and mitigation plans to be paid for with money appropriated for IT projects. No more than 10 percent of project budget can be spent until risk assessment and mitigation plan are approved by MN.IT.
- 16E.0465: IT projects of more than \$1 million must be divided into phases, and MN.IT must review each phase before money for the phase is encumbered.

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- 16E.055: Agencies must use single entry site created by MN.IT for electronic government services.
- 16E.145: Appropriations for state IT projects must be made to MN.IT, or if made to another agency must be transferred to MN.IT.
- 16E.15: MN.IT can sell or license software developed by agencies or by a vendor, with proceeds credited to MN.IT revolving fund. If an agency other than MN.IT has contributed to development of the software, MN.IT can reimburse the agency by discounting computer services provided to the agency.
- 16E.16: MN.IT may require an agency to adjust its procedures to take advantage of IT systems.
- 16E.17: MN.IT shall control state telecommunications facilities and services.
- 16E.18: State shall seek to meet telecommunications needs in a manner that will help promote growth of private sector infrastructure, and MN.IT shall ensure the telecommunications services are acquired in a manner that meets specified goals and standards. MN.IT shall arrange for provision of IT and telecommunications services to state agencies (much more detail in text of this section).
- 16E.22: Statewide electronic licensing account created in the state treasury. Temporary surcharge imposed on license fees.

16E.01, subdivision 3, paragraph (b)

“The chief information officer [*of MN.IT*], in consultation with the commissioner of management and budget, must determine when it is cost-effective for agencies to develop and use shared information and telecommunications technology systems and services for the delivery of electronic government services. The chief information officer may require agencies to use shared information and telecommunications technology systems and services. The chief information officer shall establish reimbursement rates in cooperation with the commissioner of management and budget to be billed to agencies and other governmental entities sufficient to cover the actual development, operating, maintenance, and administrative costs of the shared systems. The methodology for billing may include the use of interagency agreements, or other means as allowed by law.”

16E.03, subdivisions 3 and 4

“Subd. 3. A state agency may not undertake an information and telecommunications technology project until it has been evaluated according to the procedures developed under subdivision 4. The chief information officer shall give written approval of the proposed project. When notified by the chief information officer that a project has not been approved, the commissioner of management and budget shall cancel the unencumbered balance of any appropriation allotted for the project.

Subd. 4. The chief information officer shall establish and, as necessary, update and modify procedures to evaluate information and communications projects proposed by state agencies. The evaluation procedure must assess the necessity, design and plan for development, ability to meet user requirements, accessibility, feasibility, and flexibility of the proposed data processing device or system, its relationship to other state data processing devices or systems, and its costs and benefits when considered by itself and when compared with other options.”

16E.04, subdivision 1, subdivision 2, paragraph (c), and subdivision 3, paragraph (b)

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“Subdivision 1. The office shall develop, establish, and enforce policies and standards for state agencies to follow in developing and purchasing information and telecommunications technology systems and services and training appropriate persons in their use. The office shall develop, promote, and manage state technology, architecture, standards and guidelines, information needs analysis techniques, contracts for the purchase of equipment and services, and training of state agency personnel on these issues.”

“Subd. 2.....(c) The office shall review and approve agency requests for grant funding that have an information and technology component.”

“Subd. 3.....(b) The risk assessment and risk mitigation plan must be paid for with money appropriated for the information and telecommunications technology project. The chief information officer must notify the commissioner of management and budget when work has begun on a project and must identify the proposed budget for the project. The commissioner of management and budget shall ensure that no more than ten percent of the proposed budget be spent on the project, other than the money spent on the risk assessment and risk mitigation plan, is spent until the risk assessment and mitigation plan are reported to the chief information officer and the chief information officer has approved the risk mitigation plan.”

16E.0465

“Subdivision 1. This section applies to an appropriation of more than \$1,000,000 of state or federal funds to a state agency for any information and telecommunications technology project or for any phase of such a project, device, or system. For purposes of this section, an appropriation of state or federal funds to a state agency includes an appropriation:

- (1) to a constitutional officer;
- (2) for a project that includes both a state agency and units of local government; and
- (3) to a state agency for grants to be made to other entities.

Subd. 2. (a) A state agency receiving an appropriation for an information and telecommunications technology project subject to this section must divide the project into phases.

(b) The commissioner of management and budget may not authorize the encumbrance or expenditure of an appropriation of state funds to a state agency for any phase of a project, device, or system subject to this section unless the Office of MN.IT Services has reviewed each phase of the project, device, or system, and based on this review, the chief information officer has determined for each phase that:

- (1) the project is compatible with the state information architecture and other policies and standards established by the chief information officer;
- (2) the agency is able to accomplish the goals of the phase of the project with the funds appropriated; and
- (3) the project supports the enterprise information technology strategy.”

16E.055

“A state agency that implements electronic government services for fees, licenses, sales, or other purposes must use the single entry site created by the chief information officer for all agencies to use for electronic government services.”

16E.145

“An appropriation for a state agency information and telecommunications technology project must be made to the chief information officer. The chief information officer must manage and disburse the appropriation on behalf of the sponsoring state agency. Any appropriation for an information and telecommunications technology project made to a state agency other than the Office of MN.IT Services is transferred to the chief information officer.”

16E.15

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Subdivision 1. The chief information officer may sell or license computer software products or services developed by state agencies or custom developed by a vendor, through whatever sales method the chief information officer considers appropriate. Prices for the software products or services may be based on market considerations.

Subd. 2. (a) Except as provided in paragraph (b), proceeds of the sale or licensing of software products or services by the chief information officer must be credited to the MN.IT services revolving fund. If a state agency other than the Office of MN.IT Services has contributed to the development of software sold or licensed under this section, the chief information officer may reimburse the agency by discounting computer services provided to that agency.

(b) Proceeds of the sale or licensing of software products or services developed by the Pollution Control Agency, or custom developed by a vendor for the agency, must be credited to the environmental fund.

16E.16

“When improved program effectiveness, better use of services, and greater efficiency and economy in state government can be demonstrated, the chief information officer with the approval of the governor may require a state agency to adjust its operating and management procedures to take advantage of improved systems, procedures, and methods resulting from systems analysis and information science technology.”

16E.17

“The chief information officer shall supervise and control all state telecommunication facilities and services, including any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems. Nothing in this section or section 16E.18 modifies, amends, or abridges any powers and duties presently vested in or imposed upon the commissioner of transportation or the commissioner of public safety relating to telecommunications facilities or the commissioner of transportation relating only to radio air navigation facilities or other air navigation facilities.”

16E.18

“Subdivision 1. (a) The state through its departments and agencies shall seek ways to meet its telecommunications needs in a manner that will help to promote investment and growth of the private sector information infrastructure throughout the state.

(b) The chief information officer shall ensure that telecommunications services are acquired in a manner that:

- (1) promotes the availability of technologies with statewide high-speed or advanced telecommunications capability for both public and private customers in a reasonable and timely fashion;
- (2) enables the cost-effective provision of telecommunications services to the entities identified in this section;
- (3) uses standards-based open, interoperable networks to the extent practicable;
- (4) promotes fair and open competition in the delivery of telecommunications services;
- (5) allows effective state information infrastructure network management, responsiveness, and fault protection;
- (6) provides network wide security and confidentiality as appropriate for promoting public safety, health, and welfare; and
- (7) meets performance standards that are reasonable and necessary.

(c) The state may purchase, own, or lease customer premises equipment. Customer premises equipment consists of terminal and associated equipment and inside wire located at an end user's premises and connected with communication channels at the point established in a building or a complex to separate customer equipment from the network. Customer premises equipment also includes, but is not limited to, communications devices eligible for distribution to communications impaired persons under section 237.51, subdivision 1.

(d) This section does not prohibit the chief information officer or other governmental entity from owning, leasing, operating, and staffing a network operation center that allows the chief information officer to test, troubleshoot, and maintain network operations.

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Subd. 2. Except as provided in subdivision 4, the chief information officer, through the state information infrastructure, shall arrange for the provision of information technology and telecommunications services to state agencies. The state information infrastructure may also serve educational institutions, including public schools as defined in section 120A.05, subdivisions 9, 11, 13, and 17, nonpublic, church or religious organization schools that provide instruction in compliance with sections 120A.22, 120A.24, and 120A.41, and private colleges; public corporations; Indian tribal governments; state political subdivisions; and public noncommercial educational television broadcast stations as defined in section 129D.12, subdivision 2. It is not a telephone company for purposes of chapter 237. The chief information officer may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable or timely fashion consistent with policy set forth in this section. The chief information officer shall not resell or sublease any services or facilities to nonpublic entities except to serve private schools and colleges. The chief information officer has the responsibility for planning, development, and operations of the state information infrastructure in order to provide cost-effective telecommunications transmission services to state information infrastructure users consistent with the policy set forth in this section.

Subd. 3. (a) The chief information officer shall:

- (1) arrange for information technology and telecommunications services to the state and to political subdivisions through an account in the MN.IT services revolving fund;
 - (2) manage vendor relationships, network function, and capacity planning in order to be responsive to the needs of the state information infrastructure users;
 - (3) set rates and fees for services;
 - (4) approve contracts for services, facilities, or equipment relating to the system;
 - (5) develop a system plan and the annual program and fiscal plans for the system; and
 - (6) in consultation with the commissioner of education in regard to schools, assist state agencies, political subdivisions of the state, and higher education institutions, including private colleges and public and private schools, to identify their telecommunication needs, and develop plans for interoperability of the network consistent with the policies in subdivision 1, paragraphs (a) and (b). When requested, the chief information officer may also assist in identifying, purchasing, or leasing their customer premises equipment.
- (b) The chief information officer may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable and timely fashion consistent with the policy set forth in this section.

Subd. 4. The chief information officer may require the participation of state agencies and the commissioner of education, and may request the participation of the Board of Regents of the University of Minnesota and the Board of Trustees of the Minnesota State Colleges and Universities, in the planning and implementation of the network to provide interconnective technologies. The Board of Trustees of the Minnesota State Colleges and Universities may opt out of participation as a subscriber on the network, in whole or in part, if the board is able to secure telecommunications services from another source that ensures it will achieve the policy objectives set forth in subdivision 1.

Subd. 5. The chief information officer may, but is not required to, approve community-based aggregation of demand for telecommunications services for state agencies, including Minnesota State Colleges and Universities. To be considered a community-based aggregation project:

- (1) the project must aggregate telecommunications demands of state agencies with that of the private sector in a community or a group of communities in a geographic region to the extent permitted by law; and
- (2) the aggregation must result in telecommunications infrastructure improvements that ensure the policy set forth in subdivision 1, paragraphs (a) and (b).

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Subd. 6. (a) The chief information officer shall establish reimbursement rates in cooperation with the commissioner of management and budget to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.

(b) Except as otherwise provided in subdivision 4, a direct appropriation made to an educational institution for usage costs associated with the state information infrastructure must only be used by the educational institution for payment of usage costs of the network as billed by the chief information officer.

Subd. 7. Money appropriated for the state information infrastructure and fees for telecommunications services must be deposited in an account in the MN.IT services revolving fund. Money in the account is appropriated annually to the chief information officer to carry out the purposes of this section.

Subd. 8. The state information network is exempt from the five- and ten-year limitation on contracts set by sections 16C.05, subdivision 2, paragraph (b); 16C.06, subdivision 3b; 16C.08, subdivision 3, clause (5); and 16C.09, clause (6). A contract compliance review must be performed by the office on a five-year basis for any contract that has a total term greater than five years. The review must detail any compliance or performance issues on the part of the contractor.

16E.22

Subdivision 1. The statewide electronic licensing account is created in the special revenue fund. Receipts and transfers credited to the account are appropriated to the state chief information officer for completion of the Minnesota electronic licensing system, for transferring licensing agencies to the system, and for operation and maintenance of the system during the completion and transfer period.

Subd. 2. The transfer of an existing electronic licensing system to the Minnesota electronic licensing system may not reduce the critical functionality provided by the existing system.

Subd. 3. (a) Except as provided in this subdivision, executive branch state agencies shall collect a temporary surcharge of ten percent of the licensing fee, but no less than \$5 and no more than \$150 on each business, commercial, professional, or occupational license that:

- (1) requires a fee; and
- (2) will be transferred to the Minnesota electronic licensing system, as determined by the state chief information officer.

The surcharge applies to initial license applications and license renewals. Each agency that issues a license subject to this subdivision shall collect the surcharge for the license for up to six years between July 1, 2009, and June 30, 2015, as directed by the state chief information officer. Receipts from the surcharge shall be deposited in the statewide licensing account established in subdivision 1.

(b) An agency may transfer an amount equivalent to the surcharge imposed under this section from existing license accounts to the statewide electronic licensing system account in lieu of collecting the surcharge required under this section. If a transfer is made under this subdivision or under section 45.24, the temporary surcharge required under paragraph (a) does not apply to the relevant license. Transfers received under this paragraph shall be deposited in the statewide licensing account established in subdivision 1.

(c) In lieu of collecting the surcharge imposed in paragraph (a), during each fiscal year beginning July 1, 2009, and ending June 30, 2015, one or more health-related boards established in chapter 214 may transfer funds from the health occupations licensing account in the state government special revenue fund to the statewide electronic licensing system account to meet the requirements under paragraph (b). If the commissioner of management and budget determines that the balance of the health occupations licensing account established in section 214.06, subdivision 1a, is insufficient to make transfers under paragraph (b), then the temporary surcharge required under paragraph (a) must be applied to the relevant licenses.

(d) Department of Commerce licensees who are paying for an existing electronic licensing database system under section 45.24 must not be required to pay the surcharge under this section.

Subd. 4. The state chief information officer may enter into a risk-share or phased agreement with a vendor to complete the Minnesota electronic licensing system and to transfer licensing agencies to the system, provided that the payment for the vendor's services under the agreement is limited to the revenue from the surcharge

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enacted under subdivision 3, after payment of state operating and maintenance costs. The agreement must clearly indicate that the state chief information officer may only expend amounts actually collected from the surcharge, after state operations and maintenance costs have been paid, in payment for the vendor's services and that the vendor assumes this risk when performing work under the contract. This section does not require the state chief information officer to pay the vendor the entire amount of the surcharge revenue that remains after payment of state operations and maintenance costs. Before entering into a contract under this subdivision, the state chief information officer must consult with the commissioner of management and budget regarding the implementation of the surcharge and the terms of the contract.

Subd. 5. Money remaining in the statewide electronic licensing account after payment of all costs of completing the Minnesota electronic licensing system, transferring licensing agencies to the system, and operating and maintaining the system during the completion and transfer period is appropriated to the state chief information officer for the costs of operating and maintaining the Minnesota electronic licensing system after the system has been completed.

Subd. 6. To the extent possible, in completing the Minnesota electronic licensing system, the state chief information officer must give priority to licenses that are not issued electronically. Licenses regulated by a health board under chapter 214 must not be transferred to the Minnesota electronic licensing system before July 1, 2011.

Subd. 7. This section expires on June 30, 2017.