

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40002-LR-1 (12/14)

Short Title: Independent State CIO.

(Public)

Sponsors: Representative Saine.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE DEPARTMENT OF INFORMATION TECHNOLOGY AS AN INDEPENDENT AGENCY AND MAKE THE STATE CHIEF INFORMATION OFFICER AN INDEPENDENT EXECUTIVE OFFICER SUBJECT TO CONFIRMATION BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-6 reads as rewritten:

"§ 143B-6. **Principal departments; other executive branch departments.**

(a) ~~In-Principal Departments.~~ – Except as provided by subsection (b) of this section, in addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

- (1) Department of Natural and Cultural Resources.
- (2) Department of Health and Human Services.
- (3) Department of Revenue.
- (4) Department of Public Safety.
- (5) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
- (6) Department of Environmental Quality.
- (7) Department of Transportation.
- (8) Department of Administration.
- (9) Department of Commerce.
- (10) Community Colleges System Office.
- (11) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
- ~~(12) Department of Information Technology.~~
- (13) Department of Military and Veterans Affairs.

(b) Other Departments. – In addition to the principal departments enumerated in subsection (a) of this section, these other executive branch departments shall act independently of the Governor and General Assembly, under the sole authority of the designated department head:

- (1) Department of Information Technology."

SECTION 2. G.S. 143B-1320(a)(18) reads as rewritten:

"(18) State Chief Information Officer or State CIO. – The head of the Department, who is a ~~Governor's cabinet level~~ an independent officer."

SECTION 3. G.S. 143B-1322(a) reads as rewritten:

"§ 143B-1322. **State CIO duties; Departmental personnel and administration.**



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1 (a) State CIO. – The State Chief Information Officer (State CIO) is the head of the
2 ~~Department, a member of the Governor's cabinet, and may also be referred to as the Secretary of~~
3 ~~the Department of Information Technology. The State CIO is appointed by and serves at the~~
4 ~~pleasure of the Governor.~~ Department. The State CIO shall be qualified by education and
5 experience for the office. The State CIO shall be nominated by the Lieutenant Governor subject to
6 confirmation by the General Assembly. The term of office of the State CIO shall be for five years;
7 the first full term shall begin July 1, 2017. The salary of the State CIO shall be set by the
8 ~~Governor.~~ General Assembly in the Current Operations Appropriations Act. The State CIO shall
9 receive longevity pay on the same basis as is provided to employees of the State who are subject
10 to the North Carolina Human Resources Act.

11 The Lieutenant Governor shall submit the name of the person to be appointed, for
12 confirmation by the General Assembly, to the President Pro Tempore of the Senate and the
13 Speaker of the House of Representatives by May 1, 2017, and thereafter by May 1 of the year in
14 which the then current term expires. If the Lieutenant Governor does not submit the name by that
15 date, the President Pro Tempore of the Senate and the Speaker of the House of Representatives
16 shall submit a name to the General Assembly for confirmation.

17 In the event of a vacancy, the Lieutenant Governor shall submit the name of a successor to the
18 President of the Senate and the Speaker of the House of Representatives within four weeks after
19 the vacancy occurs. If the Lieutenant Governor does not do so, the President of the Senate and the
20 Speaker of the House of Representatives shall submit a name to the General Assembly for
21 confirmation.

22 (b) Departmental Personnel. – The State CIO may appoint one or more deputy State CIOs,
23 each of whom shall be under the direct supervision of the State CIO. The salaries of the deputy
24 State CIOs shall be set by the State CIO. The State CIO and the Deputy State CIOs are exempt
25 from the North Carolina Human Resources Act. ~~Subject to the approval of the Governor and~~
26 ~~limitations of the G.S. 126-5, the~~ The State CIO may appoint or designate additional managerial
27 and policy making positions, including, but not limited to, the Department's chief financial officer
28 and general counsel, each of whom shall be exempt from the North Carolina Human Resources
29 Act.

30 (c) Administration. – The Department shall be managed under the administration of the
31 State CIO. The State CIO shall have the following powers and duty to do all of the following:

- 32 (1) Ensure that executive branch agencies receive all required information
33 technology support in an efficient and timely manner.
- 34 (2) Ensure that such information technology support is provided to local
35 government entities and others, as appropriate.
- 36 (3) Approve the selection of the respective agency chief information officers.
- 37 (4) As required, plan and coordinate information technology efforts with State
38 agencies, nonprofits, and private organizations.
- 39 (5) Ensure the security of State information technology systems and networks, as
40 well as associated data, developing standardized systems and processes.
- 41 (6) Prepare and present the Department's budget in accordance with Chapter 143C
42 of the General Statutes, the State Budget Act.
- 43 (7) Establish rates for all goods and services provided by the Department within
44 required schedules.
- 45 (8) Identify and work to consolidate duplicate information technology capabilities.
- 46 (9) Identify and develop plans to increase State data center efficiencies,
47 consolidating assets in State-managed data centers.
- 48 (10) Plan for and manage State network development and operations.
- 49 (11) Centrally classify, categorize, manage, and protect the State's data.

- 1 (12) Obtain, review, and maintain, on an ongoing basis, records of the
2 appropriations, allotments, expenditures, and revenues of each State agency for
3 information technology.
- 4 (13) Be responsible for developing and administering a comprehensive long-range
5 plan to ensure the proper management of the State's information technology
6 resources.
- 7 (14) Set technical standards for information technology, review and approve
8 information technology projects and budgets, establish information technology
9 security standards, provide for the procurement of information technology
10 resources, and develop a schedule for the replacement or modification of
11 information technology systems.
- 12 (15) Require reports by State departments, institutions, or agencies of information
13 technology assets, systems, personnel, and projects; prescribe the form of such
14 reports; and verify the information when the State CIO determines verification
15 is necessary.
- 16 (16) Prescribe the manner in which information technology assets, systems, and
17 personnel shall be provided and distributed among agencies.
- 18 (17) Establish and maintain a program to provide career management for
19 information technology professionals.
- 20 (18) Prescribe the manner of inspecting or testing information technology assets,
21 systems, or personnel to determine compliance with information technology
22 plans, specifications, and requirements.
- 23 (19) Supervise and support the operations of the CGIA, GICC, GDAC, CJIN, and
24 911 Board.
- 25 (20) Oversee and coordinate an Education Community of Practice.
- 26 (21) Repealed by Session Laws 2016-94, s. 7.14(d), effective July 1, 2016.

27 (d) Budgetary Matters. – The Department's budget shall incorporate information
28 technology costs and anticipated expenditures of State agencies identified as participating
29 agencies, together with all divisions, boards, commissions, or other State entities for which the
30 principal departments have budgetary authority. The Department shall submit its proposed budget
31 to the Office of State Budget and Management and the Governor shall incorporate it into the
32 Governor's budget.

33 (e) State Ethics Act. – All employees of the Department shall be subject to the applicable
34 provisions of the State Government Ethics Act under Chapter 138A of the General Statutes."

35 **SECTION 4.** G.S. 143B-1342 reads as rewritten:

36 "**§ 143B-1342. Dispute resolution.**

37 (a) Agency Request for Review. – In any instance where the ~~State CIO Department~~ has
38 denied or suspended the approval of an information technology project, has cancelled the project,
39 or has denied an agency's request for deviation, the affected State agency may request that the
40 ~~Governor review the State CIO's decision.~~ State CIO review the decision. The agency shall submit
41 a written request for ~~review to the Governor~~ reconsideration within 15 business days following the
42 agency's receipt of the ~~State CIO's Department's~~ written grounds for denial, suspension, or
43 cancellation. The agency's request for ~~review~~ reconsideration shall specify the grounds for its
44 disagreement with the ~~State CIO's Department's~~ determination. ~~The agency shall include with its~~
45 ~~request for review a copy of the State CIO's written grounds for denial or suspension.~~

46 (b) Review Process. – ~~The Governor shall review the information provided and may~~
47 ~~request additional information from either the agency or the State CIO. The Governor may affirm,~~
48 ~~reverse, or modify the decision of the State CIO or may remand the matter back to the State CIO~~
49 ~~for additional findings. Within 30 days after initial receipt of the agency's request for review, the~~
50 ~~Governor shall notify the agency and the State CIO of the decision in the matter. The notification~~
51 ~~shall be in writing and shall specify the grounds for the Governor's decision.~~

1 The ~~Governor-State CIO~~ may reverse or modify a decision of the ~~State CIO-Department~~ when
2 the ~~Governor-State CIO~~ finds the ~~decision of the State CIO-Department's decision~~ is unsupported
3 by substantial evidence that the agency project fails to meet one or more standards of efficiency
4 and quality of State government information technology as required under this Article."

5 **SECTION 5.** G.S. 143B-1335 reads as rewritten:

6 "**§ 143B-1335. Financial reporting and accountability for information technology**
7 **investments and expenditures.**

8 The Department, along with the Office of State Budget and Management and the Office of the
9 State Controller, shall develop processes for budgeting and accounting of expenditures for
10 information technology operations, services, projects, infrastructure, and assets for State agencies,
11 notwithstanding any exemptions or deviations permitted pursuant to G.S. 143B-1320(b) or (c).
12 The budgeting and accounting processes may include hardware, software, personnel, training,
13 contractual services, and other items relevant to information technology and the sources of funding
14 for each. Annual reports regarding information technology shall be coordinated by the Department
15 with the Office of State Budget and Management and the Office of the State Controller and
16 submitted to the ~~Governor-Governor, the Lieutenant Governor,~~ and the General Assembly on or
17 before October 1 of each year.

18 The State CIO shall not enter into any information technology contracts requiring agency
19 financial participation without obtaining written agreement from participating agencies regarding
20 apportionment of the contract costs.

21 The State CIO shall review the information technology budgets for participating agencies and
22 shall recommend appropriate adjustments to support requirements identified by the State CIO."

23 **SECTION 6.** G.S. 126-5(d)(1) reads as rewritten:

24 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
25 Chapter, which is known as the North Carolina Human Resources Act, the
26 Governor may designate a total of 1,500 exempt positions throughout the
27 following departments and offices:

- 28 a. Department of Administration.
- 29 b. Department of Commerce.
- 30 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and
31 by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- 32 d. Department of Public Safety.
- 33 e. Department of Natural and Cultural Resources.
- 34 f. Department of Health and Human Services.
- 35 g. Department of Environmental Quality.
- 36 h. Department of Revenue.
- 37 i. Department of Transportation.
- 38 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and
39 by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- 40 ~~k. Department of Information Technology.~~
- 41 l. Office of State Budget and Management.
- 42 m. Office of State Human Resources.
- 43 n. Department of Military and Veterans Affairs."

44 **SECTION 7.** In order to maintain continuity and management of State information
45 technology services, the State Chief Information Officer (State CIO) serving when this act
46 becomes law shall serve an interim term expiring June 30, 2017. The interim State CIO has all of
47 the powers and duties conferred by law.

48 **SECTION 8.** This act is effective when it becomes law.