

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 888

An Act to amend and reenact §§ 2.2-226 and 2.2-1508 of the Code of Virginia, relating to review and approval of certain information technology projects undertaken by the Commonwealth.

[H 1575]

Approved March 22, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-226 and 2.2-1508 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-226. Secretary to function as Chief Information Officer; powers and duties.

A. The Secretary shall function as the Chief Information Officer (CIO) of the Commonwealth. In addition to his powers and duties as Secretary, the CIO shall have the following general powers:

1. Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and execution of his powers, including but not limited to contracts with the United States, other state agencies, institutions of higher education, and political subdivisions of the Commonwealth.

2. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the CIO shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable.

3. Prescribe regulations necessary or incidental to the performance of his duties or execution of his powers.

4. Exercise such powers and perform such duties as are conferred or imposed upon him by law or required of him by the Governor.

B. The CIO shall have the following powers and duties concerning the planning, budgeting, acquiring, using, disposing, managing, and administering of information technology in the Commonwealth:

1. Monitor trends and advances in information technology; direct and approve a comprehensive, statewide, four-year planning process; and plan for the acquisition, management, and use of information technology. The statewide plan shall be updated annually and submitted to the Governor, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate. In developing and updating such plans, the CIO shall consider, at a minimum, the advice and recommendations of the Council on Technology Services created pursuant to § 2.2-2651.

2. Require state agencies and institutions of higher education to prepare and submit information technology plans to the CIO. The CIO shall have the authority to approve and recommend amendments to such plans upon review and recommendation by the Department of Technology Planning (DTP). All state agencies and institutions of higher education shall maintain current information technology plans that have been approved by the CIO.

3. Direct the formulation and promulgation of policies, standards, specifications, and guidelines for information technology in the Commonwealth, including, but not limited to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned with the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, and (iii) necessary to support an enterprise approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology.

For the purposes of this subdivision, "enterprise" means a unified approach to security, suitability, and maintainability of information technology infrastructures, products and services throughout state and local government, subject to mission-critical needs.

4. Direct the development of policies and procedures, in consultation with the Department of Planning and Budget, which are integrated into the Commonwealth's strategic planning and performance budgeting processes, and which state agencies and institutions of higher education shall follow in developing information technology plans and technology-related budget requests. Such policies and procedures shall require consideration of the contribution of current and proposed technology expenditures to the support of agency and institution priority functional activities, as well as current and future operating expenses, and shall be utilized by all state agencies and institutions of higher education in preparing budget requests.

5. Review budget requests for information technology from state agencies and institutions of higher education and recommend budget priorities to the Department of Planning and Budget. *This review shall include, but not be limited to, all data processing or other related projects for amounts exceeding \$100,000 in which the agency or institution has entered into or plans to enter into a contract, agreement or other financing agreement or such other arrangement that requires that the*

Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to pay for the project. The agency or institution shall provide the Secretary for each project (i) a summary of the terms, (ii) the anticipated duration, and (iii) the cost or charges to any user, whether a state agency or institution or other party not directly a party to the project arrangements. The description shall also include any terms or conditions that bind the Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to reach such terms.

6. Direct the development of policies and procedures for review by the Department of Technology Planning of technology procurements, agreements, or contracts for amounts exceeding \$100,000. The Department of Technology Planning shall report monthly to the Secretary on all such reviews. The Secretary may delegate approval of such procurements to the Department of Technology Planning; however, *the Secretary shall not delegate approval of procurements (i) in excess of one \$1 million dollars shall not be delegated by the Secretary or (ii) data processing and other related projects in which the Commonwealth enters into a contract, agreement, financing agreement or such other arrangements that requires that the Commonwealth either pay for the contract by foregoing revenue collections, allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charge or other assessment or revenues to pay for the project.*

7. Disapprove procurements that, on the recommendation of the Department of Technology Planning, do not conform to the statewide information technology plan or to the individual plans of state agencies or institutions of higher education.

8. 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. Such policies and procedures shall include, at a minimum, the periodic review by the Secretary of the execution of agency and institution of higher education technology projects estimated to cost one million dollars or more and deemed to be mission-critical or of statewide application by the Secretary. The Secretary shall be authorized to direct the modification, suspension, or cessation of any such project which, as the result of a periodic review, has not met the milestones and performance measures agreed to by the Secretary and the sponsoring agency or institution. This shall not supersede the responsibility of a board of visitors for the management and operation of an institution of higher education.

The provisions of this subdivision shall not apply to research projects or research initiatives at institutions of higher education. However, technology investments in research projects or research initiatives at these institutions estimated to cost ~~one \$1 million dollars~~ or more of general fund appropriations may be reviewed as provided in this subdivision if the projects are deemed mission critical by the institution or of statewide application by the Secretary. The Secretaries of Technology and Education, in consultation with the institutions of higher education, shall develop and provide to the institutions of higher education criteria to be used in determining whether projects are mission-critical.

9. 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 Commonwealth.

10. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-1702.

11. Undertake or cause to be undertaken a periodic benchmarking analysis of data center and telecommunications resources and services performed at or provided by agencies and institutions.

12. Evaluate the feasibility of outsourcing information technology resources and services and outsource those resources and services that would be beneficial to the Commonwealth.

13. Evaluate the needs of agencies in the Commonwealth with regard to (i) a consistent, reliable, and secure information technology infrastructure, (ii) existing capabilities with regard to building and supporting that infrastructure, and (iii) recommended approaches to ensure the future development, maintenance, and financing of an information technology infrastructure befitting the needs of state agencies and the service level requirements of its citizens.

14. Report annually to the Joint Commission on Technology and Science created pursuant to § 30-85 on the use and application of information technology by state agencies and institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government and to assist the Commission in its effort to stimulate, encourage, and promote the development of technology in the Commonwealth and sound public policies related thereto.

C. As used in this chapter, "information technology" includes telecommunications, automated data processing, databases, word processing, the global information system known as the Internet, management information systems, and related information, equipment, goods, and services. It is in the interest of the Commonwealth that its public institutions of higher education in Virginia be in the forefront of developments in technology. Therefore the provisions of this chapter shall not be construed to hamper the pursuit of the missions of the institutions in instruction and research.

§ 2.2-1508. Submission of executive budget to General Assembly.

A. On or before December 20 in the year immediately prior to the beginning of each regular session of the General Assembly held in an even-numbered year, the Governor shall submit to the presiding officer of each house of the General Assembly printed copies of a budget document, which shall be known as "The Executive Budget," based on his own conclusions and judgment, containing the following:

1. For each agency, the amount and number of positions appropriated for the current appropriation year and the amount and number of positions recommended for each year of the ensuing biennial period beginning with the first day of July thereafter, accompanied by an explanation of the recommended amount and number of positions.

2. A statement of historical and projected trends that influence the general economic conditions in the Commonwealth and a statement of the economic assumptions upon which revenue projections are based.

3. A statement of the Governor's proposed goals, objectives, and policies in the areas of:

- a. Administration of justice;
- b. Education, including intellectual and cultural development;
- c. Individual and family services;
- d. Resources and economic development, including specific references to economic development and management of natural resources;
- e. Transportation; and
- f. General government, including therein or as separate categories areas of multiple impact, such as telecommunications, energy, and urban development.

4. A statement organized by function, primary agency, and proposed appropriation item that sets forth:

- a. Identification of common programs and services;
- b. Service attainments or lack of attainments and service terminations or reductions for the biennium;
- c. Major goals and objectives for programs;
- d. Program measures to be used in monitoring and evaluating services; and
- e. The amount of each primary agency's budget that is direct aid to localities.

5. A statement of proposed capital appropriations organized by the primary agency that sets forth the program need for the project and the proposed source of funding.

6. *A schedule and description of all data processing or other projects in which the Commonwealth has entered into or plans to enter into a contract, agreement or other financing agreement or such other arrangement that requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessment or revenues to pay for the project. Such schedule shall include by agency and project (i) a summary of the terms, (ii) the anticipated duration, and (iii) cost or charges to any user, whether a state agency or institutions or other party not directly a party to the project arrangements. The description shall also include any terms or conditions that bind the Commonwealth or restrict the Commonwealth operations and the methods of procurement employed to reach such terms.*

B. On or before December 20 of the year immediately prior to the beginning of the regular session of the General Assembly held in odd-numbered years, the Governor shall submit to the presiding officer of each house of the General Assembly printed copies of a budget document, which shall be known as "Executive Amendments to the Appropriation Act," describing all gubernatorial amendments proposed to the general appropriation act enacted in the immediately preceding even-numbered session.