

A bill for an act

relating to government operations; creating technology accessibility standards for the state; authorizing rulemaking; establishing the advisory committee for technology standards for accessibility and usability; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 16C.02, by adding a subdivision; 16C.03, subdivision 3; 16C.08, subdivision 2; 16E.01, subdivisions 1a, 3; 16E.02, subdivision 1; 16E.03, subdivisions 2, 4, by adding subdivisions; 16E.04, subdivision 1; 16E.07, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 16C.02, is amended by adding a subdivision to read:

Subd. 22. **Accessibility and accessible.** "Accessibility" and "accessible" are defined by the accessibility standards adopted under section 16E.03.

Sec. 2. Minnesota Statutes 2008, section 16C.03, subdivision 3, is amended to read:

Subd. 3. **Acquisition authority.** The commissioner shall acquire all goods, services, and utilities needed by agencies. The commissioner shall acquire goods, services, and utilities by requests for bids, requests for proposals, reverse auctions as provided in section 16C.10, subdivision 7, or other methods provided by law, unless a section of law requires a particular method of acquisition to be used. The commissioner shall make all decisions regarding acquisition activities. The determination of the acquisition method and all decisions involved in the acquisition process, unless otherwise provided for by law, shall be based on best value which includes an evaluation of price and may include other considerations including, but not limited to, environmental considerations, quality, and vendor performance. A best value determination must be based on the evaluation

criteria detailed in the solicitation document. If criteria other than price are used, the solicitation document must state the relative importance of price and other factors. Any or all responses may be rejected. When using the request for bid process, the bid must be awarded to the lowest responsive and responsible bidder, taking into consideration conformity with the specifications, terms of delivery, the purpose for which the contract or purchase is intended, the status and capability of the vendor, and other considerations imposed in the request for bids. The commissioner may decide which is the lowest responsible bidder for all purchases and may use the principles of life-cycle costing, where appropriate, in determining the lowest overall bid. The duties set forth in this subdivision are subject to delegation pursuant to this section.

The commissioner may require participation by other agencies in the development of enterprise procurements, including the development of product standards, the application of accessibility standards, specifications, and other requirements.

Sec. 3. Minnesota Statutes 2008, section 16C.08, subdivision 2, is amended to read:

Subd. 2. **Duties of contracting agency.** (a) Before an agency may seek approval of a professional or technical services contract valued in excess of \$5,000, it must provide the following:

(1) a description of how the proposed contract or amendment is necessary and reasonable to advance the statutory mission of the agency;

(2) a description of the agency's plan to notify firms or individuals who may be available to perform the services called for in the solicitation;

(3) a description of the performance measures or other tools, including accessibility measures if applicable, that will be used to monitor and evaluate contract performance; and

(4) an explanation detailing, if applicable, why this procurement is being pursued unilaterally by the agency and not as an enterprise procurement.

(b) In addition to paragraph (a), the agency must certify that:

(1) no current state employee is able and available to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

(3) reasonable efforts will be made to publicize the availability of the contract to the public;

(4) the agency will develop and implement a written plan providing for the assignment of specific agency personnel to manage the contract, including a monitoring

and liaison function, the periodic review of interim reports or other indications of past performance, and the ultimate utilization of the final product of the services;

(5) the agency will not allow the contractor to begin work before the contract is fully executed unless an exception under section 16C.05, subdivision 2a, has been granted by the commissioner and funds are fully encumbered;

(6) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

(7) in the event the results of the contract work will be carried out or continued by state employees upon completion of the contract, the contractor is required to include state employees in development and training, to the extent necessary to ensure that after completion of the contract, state employees can perform any ongoing work related to the same function; and

(8) the agency will not contract out its previously eliminated jobs for four years without first considering the same former employees who are on the seniority unit layoff list who meet the minimum qualifications determined by the agency.

(c) A contract establishes an employment relationship for purposes of paragraph (b), clause (6), if, under federal laws governing the distinction between an employee and an independent contractor, a person would be considered an employee.

Sec. 4. Minnesota Statutes 2008, section 16E.01, subdivision 1a, is amended to read:

Subd. 1a. **Responsibilities.** The office shall provide oversight, leadership, and direction for information and telecommunications technology policy and the management, delivery, accessibility, and security of information and telecommunications technology systems and services in Minnesota. The office shall manage strategic investments in information and telecommunications technology systems and services to encourage the development of a technically literate society, to ensure sufficient access to and efficient delivery of accessible government services, and to maximize benefits for the state government as an enterprise.

Sec. 5. Minnesota Statutes 2008, section 16E.01, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The office shall:

(1) manage the efficient and effective use of available federal, state, local, and public-private resources to develop statewide information and telecommunications technology systems and services and its infrastructure;

(2) approve state agency and intergovernmental information and telecommunications technology systems and services development efforts involving state or intergovernmental

funding, including federal funding, provide information to the legislature regarding projects reviewed, and recommend projects for inclusion in the governor's budget under section 16A.11;

(3) ensure cooperation and collaboration among state and local governments in developing intergovernmental information and telecommunications technology systems and services, and define the structure and responsibilities of a representative governance structure;

(4) cooperate and collaborate with the legislative and judicial branches in the development of information and communications systems in those branches;

(5) continue the development of North Star, the state's official comprehensive online service and information initiative;

(6) promote and collaborate with the state's agencies in the state's transition to an effectively competitive telecommunications market;

(7) collaborate with entities carrying out education and lifelong learning initiatives to assist Minnesotans in developing technical literacy and obtaining access to ongoing learning resources;

(8) promote and coordinate public information access and network initiatives, consistent with chapter 13, to connect Minnesota's citizens and communities to each other, to their governments, and to the world;

(9) promote and coordinate electronic commerce initiatives to ensure that Minnesota businesses and citizens can successfully compete in the global economy;

(10) manage and promote the regular and periodic reinvestment in the information and telecommunications technology systems and services infrastructure so that state and local government agencies can effectively and efficiently serve their customers;

(11) facilitate the cooperative development of and ensure compliance with standards and policies for information and telecommunications technology systems and services, electronic data practices and privacy, and electronic commerce among international, national, state, and local public and private organizations;

(12) eliminate unnecessary duplication of existing information and telecommunications technology systems and services provided by other public and private organizations while building on the existing governmental, educational, business, health care, and economic development infrastructures;

(13) identify, sponsor, develop, and execute shared information and telecommunications technology projects and ongoing operations; ~~and~~

(14) ensure overall security of the state's information and technology systems and services; and

5.1 (15) manage and direct compliance with accessibility standards for informational
5.2 technology, including hardware, software, Web sites, online forms, and online surveys.

5.3 (b) The chief information officer, in consultation with the commissioner of
5.4 finance, must determine when it is cost-effective for agencies to develop and use shared
5.5 information and telecommunications technology systems and services for the delivery of
5.6 electronic government services. The chief information officer may require agencies to
5.7 use shared information and telecommunications technology systems and services. The
5.8 chief information officer shall establish reimbursement rates in cooperation with the
5.9 commissioner of finance to be billed to agencies and other governmental entities sufficient
5.10 to cover the actual development, operating, maintenance, and administrative costs of
5.11 the shared systems. The methodology for billing may include the use of interagency
5.12 agreements, or other means as allowed by law.

5.13 (c) A state agency that has an information and telecommunications technology
5.14 project with a total expected project cost of more than \$1,000,000, whether funded as part
5.15 of the biennial budget or by any other means, shall register with the office by submitting
5.16 basic project startup documentation, as specified by the chief information officer in both
5.17 format and content, before any project funding is requested or committed and before
5.18 the project commences. State agency project leaders must demonstrate that the project
5.19 will be properly managed, provide updates to the project documentation as changes are
5.20 proposed, and regularly report on the current status of the project on a schedule agreed to
5.21 with the chief information officer.

5.22 (d) The chief information officer shall monitor progress on any active information
5.23 and telecommunications technology project with a total expected project cost of more than
5.24 \$5,000,000 and report on the performance of the project in comparison with the plans for
5.25 the project in terms of time, scope, and budget. The chief information officer may conduct
5.26 an independent project audit of the project. The audit analysis and evaluation of the
5.27 projects subject to paragraph (c) must be presented to agency executive sponsors, the
5.28 project governance bodies, and the chief information officer. All reports and responses
5.29 must become part of the project record.

5.30 (e) For any active information and telecommunications technology project with a
5.31 total expected project cost of more than \$10,000,000, the state agency must perform an
5.32 annual independent audit that conforms to published project audit principles promulgated
5.33 by the office.

5.34 (f) The chief information officer shall report by January 15 of each year to the
5.35 chairs and ranking minority members of the legislative committees and divisions with
5.36 jurisdiction over the office regarding projects the office has reviewed under paragraph (a),

clause (2). The report must include the reasons for the determinations made in the review of each project and a description of its current status.

Sec. 6. **[16E.015] DEFINITIONS.**

Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Accessibility; accessible.** "Accessibility" and "accessible" are defined by the accessibility standards developed and required under section 16E.03.

Subd. 3. **Undue burden.** "Undue burden" means significant difficulty or expense determined and documented by the funding agency, including but not limited to difficulty or expense associated with technical feasibility.

Subd. 4. **Infrastructure hardware.** "Infrastructure hardware" means servers, routers, switches, and non-end-user platform devices and their operating systems.

Sec. 7. Minnesota Statutes 2008, section 16E.02, subdivision 1, is amended to read:

Subdivision 1. **Office management and structure.** (a) The chief information officer is appointed by the governor. The chief information officer serves in the unclassified service at the pleasure of the governor. The chief information officer must have experience leading enterprise-level information technology organizations. The chief information officer is the state's chief information officer and information and telecommunications technology advisor to the governor.

(b) The chief information officer may appoint other employees of the office. The staff of the office must include individuals knowledgeable in information and telecommunications technology systems and services and individuals with specialized training in information security and accessibility.

Sec. 8. Minnesota Statutes 2008, section 16E.03, subdivision 2, is amended to read:

Subd. 2. **Chief information officer's responsibility.** The chief information officer shall coordinate the state's information and telecommunications technology systems and services to serve the needs of the state government. The chief information officer shall:

(1) design a master plan for information and telecommunications technology systems and services in the state and its political subdivisions and shall report on the plan to the governor and legislature at the beginning of each regular session;

(2) coordinate, review, and approve all information and telecommunications technology projects and oversee the state's information and telecommunications technology systems and services;

(3) establish and enforce compliance with standards for information and telecommunications technology systems and services that are cost-effective and support open systems environments and that are compatible with state, national, and international standards, including accessibility standards;

(4) maintain a library of systems and programs developed by the state and its political subdivisions for use by agencies of government;

(5) direct and manage the shared operations of the state's information and telecommunications technology systems and services; and

(6) establish and enforce standards and ensure acquisition of hardware and software necessary to protect data and systems in state agency networks connected to the Internet.

Sec. 9. Minnesota Statutes 2008, section 16E.03, subdivision 4, is amended to read:

Subd. 4. **Evaluation procedure.** 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, 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. The evaluation procedure must assess accessibility of the information and communications projects.

Sec. 10. Minnesota Statutes 2008, section 16E.03, is amended by adding a subdivision to read:

Subd. 9. **Accessibility standards.** (a) The chief information officer shall develop accessibility standards applicable to technology, software, and hardware procurement, with the exception of infrastructure hardware. The standards shall not impose an undue burden on the state.

(b) The chief information officer shall require state agencies to adhere to the standards developed under this subdivision unless an exception is approved pursuant to subdivision 10. Except as provided in paragraph (c), the standards developed under this section must incorporate section 508 of the Rehabilitation Act, United States Code, title 29, section 794d, as amended by the Workforce Investment Act of 1998, Public Law 105-220, August 7, 1998, and the Web Content Accessibility Guidelines, 2.0. The chief information officer must review subsequent revisions to section 508 of the Rehabilitation Act and to the Web Content Accessibility Guidelines and may incorporate the revisions in the accessibility standards.

(c) If the chief information officer, in consultation with the advisory committee established under section 16E.0475, determines that any standard developed under this subdivision poses an undue burden to the state, the chief information officer may modify the burdensome standard, provided written findings and rationale are made explaining the deviation.

EFFECTIVE DATE. The standards adopted under this section may not take effect until July 1, 2009. The standards apply to all information technology procured, developed, or substantially modified or substantially enhanced after the effective date of the standards. The standards do not apply to any procurement or development process initiated before the effective date of the standards.

Sec. 11. Minnesota Statutes 2008, section 16E.03, is amended by adding a subdivision to read:

Subd. 10. Exceptions to accessibility standards. Exceptions to the standards may be granted by the chief information officer based upon a request by an agency made in accordance with the thresholds and process established under section 16E.0475, subdivision 2.

Sec. 12. Minnesota Statutes 2008, section 16E.04, subdivision 1, is amended to read:

Subdivision 1. **Development.** The office shall develop, establish, and enforce policies and standards, including accessibility 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.

Sec. 13. **[16E.0475] ADVISORY COMMITTEE FOR TECHNOLOGY STANDARDS FOR ACCESSIBILITY AND USABILITY.**

Subdivision 1. **Membership.** The Advisory Committee for Technology Standards for Accessibility and Usability consists of ten members, appointed as follows:

- (1) the state chief information officer, or the state chief information officer's designee;
- (2) a representative from State Services for the Blind, appointed by the commissioner of employment and economic development;
- (3) the commissioner of administration, or the commissioner's designee;

(4) a representative selected by the Minnesota system of technology to achieve results program;

(5) a representative selected by the Commission of Deaf, DeafBlind, and Hard of Hearing Minnesotans;

(6) the commissioner of education, or the commissioner's designee;

(7) the commissioner of health, or the commissioner's designee;

(8) the commissioner of human services, or the commissioner's designee;

(9) one representative from the Minnesota judicial system designated by the chief justice; and

(10) one staff member from the legislature, appointed by the chair of the Legislative Coordinating Commission.

The appointing authorities under this subdivision must use their best efforts to ensure that the membership of the advisory committee includes at least one representative who is deaf, hard-of-hearing, or deaf-blind, and at least one representative who is blind.

The advisory committee shall elect a chair from its membership.

Subd. 2. **Duties.** The advisory committee shall:

(1) recommend review processes to be used for the evaluation of accessibility of information technology systems against accessibility standards;

(2) review and evaluate the accessibility and usability of any purchased or created information technology and telecommunications systems;

(3) provide, in consultation with state agencies serving disabled Minnesotans, training and technical assistance for state agency staff, including instruction regarding compliance with accessibility standards;

(4) convene customer groups composed of individuals with disabilities to assist in implementation of accessibility standards;

(5) review customer comments about accessibility and usability issues collected by State Services for the Blind; and

(6) develop proposals for funding captioning of live videoconferencing, live Webcasts, Web streaming, podcasts, and other emerging technologies.

The advisory committee shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over state technology systems by January 15 of each year, regarding the findings, progress, and recommendations made by the advisory committee under this subdivision. The report shall include any draft legislation necessary to implement the committee's recommendations.

Subd. 3. **Terms, compensation, and removal.** The terms, compensation, and removal of members are governed by section 15.059.

Subd. 4. **Expiration.** This section expires June 30, 2011.

Sec. 14. Minnesota Statutes 2008, section 16E.07, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) **Core services.** "Core services" means accessible information system applications required to provide secure information services and online applications and content to the public from government units. Online applications may include, but are not limited to:

(1) standardized public directory services and standardized content services;

(2) online search systems;

(3) general technical services to support government unit online services;

(4) electronic conferencing and communication services;

(5) secure electronic transaction services;

(6) digital audio, video, and multimedia services; and

(7) government intranet content and service development.

(c) **Government unit.** "Government unit" means a state department, agency, commission, council, board, task force, or committee; a constitutional office; a court entity; the Minnesota State Colleges and Universities; a county, statutory or home rule charter city, or town; a school district; a special district; or any other board, commission, district, or authority created under law, local ordinance, or charter provision.

Sec. 15. **ESTABLISHMENT OF ADVISORY COMMITTEE FOR TECHNOLOGY STANDARDS.**

The appointing authorities for the advisory committee established in Minnesota Statutes, section 16E.0475, must complete their appointments by August 1, 2009. The chief information officer or the chief information officer's designee shall convene the first meeting of the committee no later than September 1, 2009. The committee shall elect a chair as provided in Minnesota Statutes, section 16E.0475, at the first meeting of the committee.

Sec. 16. **TELECOMMUNICATIONS ACCESS MINNESOTA FUND; APPROPRIATION.**

(a) Notwithstanding the limitations and in addition to the appropriation authorized in Minnesota Statutes, section 237.52, \$300,000 in fiscal year 2010 and \$300,000 in fiscal year 2011 are appropriated from the telecommunications access Minnesota fund as follows:

11.1 (1) \$100,000 each year to the chief information officer for coordinating technology
11.2 accessibility and usability;

11.3 (2) \$100,000 each year to the Commission of Deaf, DeafBlind, and Hard of Hearing
11.4 Minnesotans to provide information on their Web site in American Sign Language and to
11.5 provide technical assistance to state agencies; and

11.6 (3) \$100,000 each year to the Legislative Coordinating Commission for a
11.7 pilot program to provide captioning of live streaming of legislative sessions on the
11.8 commission's Web site.

11.9 This is a onetime appropriation.

11.10 (b) Of the money available to Minnesota from the American Recovery and
11.11 Reinvestment Act of 2009, Public Law 111-5, and allocated to the Department of
11.12 Employment and Economic Development for activities authorized under title 1 of the
11.13 Rehabilitation Act of 1973, as amended, and Code of Federal Regulations, title 34,
11.14 part 361, of its implementing regulations, up to \$276,000 must be transferred to the
11.15 Department of Administration and the Office of Enterprise Technology to develop and
11.16 implement technology accessibility standards in order to expand employment outcomes
11.17 for individuals with disabilities.

11.18 This is a onetime appropriation.

11.19 Sec. 17. **REPEAL OF PRIOR APPROPRIATION.**

11.20 If H.F. No. 2123 is enacted in the 2009 regular session, the appropriation to the
11.21 commissioner of commerce in H.F. No. 2123, article 2, section 3, subdivision 8, is
11.22 repealed.

11.23 Sec. 18. **EFFECTIVE DATE.**

11.24 This act is effective July 1, 2009.