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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - ESTABLISHING THE STATE
DEPARTMENT OF INFORMATION TECHNOLOGY

Introduced By: Senators Hodgson, DaPonte, Algieri, Doyle, and Ottiano

Date Introduced: March 01, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 21.3

4 STATE DEPARTMENT OF INFORMATION TECHNOLOGY

5 **39-21.3-1. Definitions. - -** As used in this chapter:

6 (1) "Architecture" means the defined structure or orderly arrangement of information
7 systems and telecommunication systems, based on accepted industry standards and guidelines, for
8 the purpose of maximizing the interconnection and efficiency of such systems and the ability of
9 users to share information resources.

10 (2) "Information systems" means the combination of data processing hardware and
11 software in the collection, processing and distribution of data to and from interactive computer-
12 based systems to meet informational needs.

13 (3) "State agency" means any state agency, department, public authority, public
14 corporation, quasi-public corporation, organization, commission or other governing body. The
15 term "state agency" shall also include: (i) The offices of the governor, lieutenant governor,
16 treasurer, attorney general, and secretary of the state; and (ii) All operations of an executive
17 department agency which are funded by either the general fund, treasury fund or any other special
18 fund.

1 (4) "Telecommunication systems" means telephone equipment and transmission
2 facilities, either alone or in combination with information systems, for the electronic distribution
3 of all forms of information, including voice, data and images.

4 (5) "Chief information officer" means the department head for the department of
5 information technology.

6 **39-21.3-2. Department of information technology – Chief information officer –**
7 **Duties and responsibilities.** -- (a) There is established the department of information technology.
8 The department of information technology shall be administered by a chief information officer,
9 who shall be an individual knowledgeable with respect to information and telecommunication
10 systems.

11 (b) The chief information officer shall be appointed by the governor, with the advice and
12 consent of the senate.

13 (c) The chief information officer shall:

14 (1) Develop and implement an integrated set of policies and architecture pertaining to
15 information and telecommunication systems for state agencies;

16 (2) Develop a series of comprehensive standards and planning guidelines pertaining to
17 the development, acquisition, implementation, and oversight and management of information and
18 telecommunication systems for state agencies;

19 (3) Identify and implement:

20 (i) Optimal information and telecommunication systems to efficiently service the needs
21 of state agencies; and

22 (ii) Opportunities for reducing costs for such systems.

23 (4) Approve or disapprove, in accordance with guidelines established by the chief
24 information officer, each proposed state agency acquisition of hardware or software for an
25 information or telecommunication system, except for:

26 (i) Hardware or software having a cost of less than twenty thousand dollars (\$20,000); or

27 (ii) Hardware or software having a cost of twenty thousand dollars (\$20,000) or more, but
28 less than one hundred thousand dollars (\$100,000), which is for a project that complies with the
29 agency's business system's plan as approved by the chief information officer.

30 (5) Approve or disapprove, in accordance with guidelines established by the chief
31 information officer, all state agency requests or proposed contracts for consultants for information
32 and telecommunication systems;

33 (6) Be responsible for purchasing, leasing and contracting for all information system and
34 telecommunication system facilities, equipment and services for state agencies, in accordance

1 with the provisions of this chapter, except for the offices of the governor, lieutenant governor,
2 treasurer, attorney general and secretary of the state;

3 (7) Review existing and new information and telecommunication system technologies to
4 ensure consistency with the strategic plan established under section 39-21.2-7 and approved state
5 agency architecture and make recommendations for review and appropriate action;

6 (8) Cooperate with the general assembly, the state supreme court and the constituent units
7 of the state system of higher education in assessing opportunities for cost savings and greater
8 sharing of information resources which could result if such entities acquire information and
9 telecommunication systems similar to those of state agencies;

10 (9) Ensure state-wide implementation of the 9-1-1 and E 9-1-1 systems; and

11 (10) Serve as an ex officio member of the economic development corporation, the board
12 of governors for higher education and the board of regents for elementary and secondary
13 education.

14 (d) The department of information technology shall approve or disapprove a state agency
15 request or proposed contract under subdivision (4) or (5) of subsection (c) of this section no later
16 than seven (7) business days after receipt of the request or proposed contract and any necessary
17 supporting information. If the department of information technology does not approve or
18 disapprove the request or proposed contract by the end of such seven (7) day period, the request
19 or proposed contract shall be deemed to have been approved. The provisions of said subdivision
20 (5) shall not apply to telecommunication consultants retained by the public utilities commission
21 in connection with telecommunication proceedings of said commission.

22 **39-21.3-3. Regulations.** -- The chief information officer may adopt rules and regulations
23 to carry out and enforce the provisions of this chapter.

24 **39-21.3-4. Information and telecommunication systems – Transfer and**
25 **responsibility for.** -- On July 1, 2012, any and all information systems and telecommunication
26 systems functions, as defined in this chapter, of the department of administrative, of the Rhode
27 Island public telecommunications authority as defined in chapter 16-16, and of the 9-1-1 authority
28 as defined in section 39-21.1-3, shall be transferred to the department of information technology
29 and, on and after said date, the chief information officer shall be responsible for such functions.
30 The department of information technology shall be deemed a replacing agency for purposes of
31 administering the state's emergency 911 system pursuant to the terms of section 39-21.1-6.

32 **39-21.3-5. Telecommunication facilities, equipment and services – Responsibility for.**
33 **-- (a) The chief information officer shall be responsible for purchasing, leasing and contracting**
34 **for all telecommunication facilities, equipment and services for the state-wide telecommunication**

1 infrastructure for the support of state agencies; implementing, or assisting state agencies in
2 implementing, such facilities; processing bills for telecommunication services used by state
3 agencies including telecommunication services provided at the request of state agencies to:

4 (1) Private nonprofit or not-for-profit agencies whose telecommunication services are
5 funded primarily by the state; and

6 (2) Political subdivisions of the state; and managing the operation of such infrastructure.

7 (b) The chief information officer shall be responsible for planning for such
8 telecommunication infrastructure and assisting state agencies in:

9 (1) Planning for the acquisition of telecommunication systems; and

10 (2) Implementing such systems.

11 **39-21.3-6. Implementation plan.** -- (a) The chief information officer shall prepare an
12 implementation plan for carrying out the purposes of this chapter. The plan shall establish:

13 (1) Policy goals for the department of information technology; and

14 (2) Strategies for the management and delivery of information system and
15 telecommunication system services for state agencies.

16 (b) Not later than January 1, 2013, the chief information officer shall submit such plan to
17 the governor and to the general assembly relating to government administration.

18 **39-21.3-7. Information and telecommunication systems strategic plan.** -- (a) The
19 chief information officer shall develop, publish and annually update an information and
20 telecommunication system's strategic plan which shall have the following goals:

21 (1) To provide a level of voice and data communications service among all state agencies
22 that will ensure the effective and efficient completion of their respective functions;

23 (2) To establish a direction for the collection, storage, management and use of
24 information by state agencies in an efficient manner;

25 (3) To develop a comprehensive information policy for state agencies that clearly
26 articulates:

27 (i) The state's commitment to the sharing of its information resources;

28 (ii) The relationship of such resources to library and other information resources in the
29 state;

30 (iii) A philosophy of equal access to information.

31 (4) To provide all necessary telecommunication services between state agencies and the
32 public;

33 (5) To provide, in the event of an emergency, immediate voice and data communications
34 capabilities which are necessary to support state agency functions; and

1 (6) To provide necessary access to higher technology for state agencies.

2 (b) In order to facilitate the development of a fully integrated state-wide information
3 services and telecommunication system which effectively and efficiently supports data processing
4 and telecommunication requirements of all state agencies, the strategic plan shall include:

5 (1) Establishment of guidelines and standards for the architecture for information and
6 telecommunication systems which support state agencies;

7 (2) Plans for a cost-effective state-wide telecommunication network to support state
8 agencies, which network may consist of different types of transmission media, including wire,
9 fiber and radio, and shall be able to support voice, data, video and facsimile transmission
10 requirements and any other form of information exchange which takes place via electromagnetic
11 media;

12 (3) A level of information systems and telecommunication planning for all state agencies
13 and operations throughout the state that will ensure the effective and efficient utilization and
14 access to the state's information and telecommunication resources, including, but not limited to:

15 (i) An inventory of existing on-line public access arrangements for state agency data
16 bases which contain information subject to disclosure under the Freedom of Information Act;

17 (ii) A list of data bases for which such access could be provided, including data bases
18 containing consumer, business and health and human services program information;

19 (iii) Provisions addressing the feasibility and cost of providing such access;

20 (iv) Provisions for a public-private partnership in providing such on-line access; and

21 (v) Provisions to enable citizens to communicate with state agencies by electronic mail;

22 (4) Identification of annual expenditures and major capital commitments for information
23 and telecommunication systems; and

24 (5) A direction and policy planning pertaining to the infusion of new technology for such
25 systems for state agencies. In carrying out the provisions of subparagraphs (i) to (v), inclusive, of
26 subdivision (3) of this subsection, the chief information officer shall consult with representatives
27 of business associations, consumer organizations and nonprofit human services providers.

28 (c) Each state agency shall submit to the chief information officer all plans, documents
29 and other information requested by the chief information officer for the development of such
30 plan.

31 (d) The chief information officer shall not implement a state agency proposal for
32 information system hardware, software, maintenance service or consulting unless such proposal
33 complies with the strategic plan and the agency's approved business systems plan. The chief
34 information officer shall maintain a current inventory of information system components to

1 facilitate asset management and procurement leverage.

2 **39-21.3-8. Information and telecommunication systems – Purchase, lease, contracts**
3 **for, sale and disposal.** -- (a) The provisions of chapter 37-2 regarding state purchases shall apply
4 to the purchasing, leasing and contracting for information system and telecommunication system
5 facilities, equipment and services by the chief information officer, except that:

6 (1) The chief information officer shall have the powers and duties that are assigned by
7 said chapter 37-2 to the director of the department of administration and/or chief purchasing
8 officer and/or the purchasing agent;

9 (2) The chief information officer may use and employ any powers, tools and methods
10 provided for state purchases as provided for in chapter 37-2, including the suspension of
11 competitive bidding when permitted. The chief information officer shall adopt regulations, in
12 accordance with the provisions of this chapter, establishing objective standards for determining
13 when such alternative methods may be used instead of competitive bidding, including whether the
14 character of the facilities, equipment or services is more important than their relative cost.

15 (b)(1) As used in this subsection, "information technology personal property" includes,
16 but is not limited to, electronic data processing equipment, other equipment necessary for the
17 utilization of information systems, telecommunication equipment or installations, and other
18 equipment necessary for the utilization of telecommunication systems.

19 (2) Notwithstanding any provision of the general statutes to the contrary, the chief
20 information officer may sell, lease or otherwise dispose of information technology personal
21 property. The chief information officer may execute personal service agreements or other
22 contracts with outside vendors for such purposes. If any such information technology personal
23 property was purchased or improved with the proceeds of tax-exempt obligations issued or to be
24 issued by the state, the chief information officer shall notify the state treasurer and obtain the
25 approval of the state treasurer, before selling, leasing or disposing of the personal property or
26 executing such an agreement or contract for such purpose. The state treasurer may disapprove
27 such sale, lease, disposition, agreement or contract only if it would affect the tax-exempt status of
28 such obligations and could not be modified to maintain such tax-exempt status.

29 **39-21.3-9. Technical services revolving fund.** -- There shall be a technical services
30 revolving fund in the department of information technology for the purchase, installation and
31 utilization of information systems, as defined in section 39-21.2-1, for budgeted agencies of the
32 state. The working capital balance allocated to said technical services revolving fund shall be one
33 million one hundred thousand dollars (\$1,100,000). The chief information officer and the general
34 treasurer shall jointly be responsible for the administration of such fund. Said officer and

1 treasurer shall develop appropriate review procedures and accountability standards for such fund
2 and measures for determining the performance of the fund.

3 **39-21.3-10. Capital equipment data processing revolving fund.** -- (a) The chief
4 information officer is authorized to establish and administer a fund to be known as the capital
5 equipment data processing revolving fund which shall be used for the purchase of data processing
6 equipment and related items necessary to maintain or improve the state's data processing
7 functions. The chief information officer is authorized to expend funds necessary for all reasonable
8 direct expenses relating to the administration of said fund.

9 (b) The state investment commission shall have power from time to time to authorize the
10 issuance of bonds of the state in one or more series in accordance with the general laws and in a
11 principal amount necessary to carry out the purposes of this section, but not in excess of an
12 aggregate amount of ten million five hundred thousand dollars (\$10,500,000). All of said bonds
13 shall be payable at such place or places as may be determined by the treasurer, and shall bear
14 such date or dates, mature at such time or times, not exceeding five (5) years from their respective
15 dates, bear interest at such rate or different or varying rates and payable at such time or times, be
16 in such denominations, be in such form with or without interest coupons attached, carry such
17 registration and transfer privileges, be payable in such medium of payment and be subject to such
18 terms of redemption with or without premium as may be provided by the authorization of the
19 state investment commission or fixed in accordance therewith. The proceeds of the sale of such
20 bonds shall be deposited in the capital equipment data processing revolving fund created by this
21 section. Such bonds shall be general obligations of the state and full faith and credit of the state of
22 Rhode Island and are pledged for the payment of the principal of and interest on such bonds as
23 the same become due. Accordingly, and as part of the contract of the state with the holders of
24 such bonds, appropriation of all amounts necessary for punctual payment of such principal and
25 interest is hereby made and the treasurer shall pay such principal and interest as the same become
26 due. Net earnings on investments or reinvestments of proceeds, accrued interest and premiums on
27 the issuance of such bonds, after payment therefrom of expenses incurred by the treasurer or state
28 investment commission in connection with their issuance, shall be deposited in the general fund
29 of the state.

30 **39-21.3-11. State agency appropriations and expenditures for information and**
31 **telecommunication systems.** -- The chief information officer shall establish a procedure for the
32 preparation by state agencies of plans and estimates of expenditure requirements for information
33 and telecommunication systems, for consideration for inclusion in the governor's budget
34 document. On February 1, 2013, and annually thereafter, the chief information officer shall

1 submit to the department of administration a report which sets forth the appropriation to each
2 state agency, for the fiscal year in progress, for information and telecommunication systems and
3 the actual expenditures for such systems by each such agency as of December 31st of such fiscal
4 year. On August 1, 2013, and annually thereafter, the chief information officer shall submit to the
5 department of administration such report with respect to the last completed fiscal year.

6 **39-21.3-12. Advisory committees authorized – Information and telecommunication**
7 **systems executive steering committee established.** -- (a) The chief information officer may
8 establish such committees as he or she deems necessary to advise said office in carrying out the
9 purposes of this chapter.

10 (b) There is established an information and telecommunication system's executive
11 steering committee consisting of the chief information officer, the director of the department of
12 administration, the general treasurer, and a representative selected by the board of regents and the
13 department of elementary and secondary education and the board of governors for higher
14 education. The chief information officer, or his or her designee, shall serve as chairperson of the
15 committee. The department of information technology shall serve as staff to the committee. The
16 committee shall:

17 (1) Review and approve or disapprove the annual information and telecommunication
18 system's strategic plan developed under the provisions of this chapter, state agency estimates of
19 expenditure requirements for information and telecommunication systems established under
20 section 39-21.2-11, and major telecommunication initiatives;

21 (2) Review, in consultation with the department of information technology, and approve
22 or disapprove variances to:

23 (i) The list of approved architectural components for information and telecommunication
24 systems for state agencies;

25 (ii) The strategic plan; and

26 (iii) Appropriations for information and telecommunication systems; and

27 (3) Advise the department of information technology on the organization and functions of
28 the department. The committee shall submit a report on each approved variance to the general
29 assembly. Such report shall include the reasons for the variance and the results of a cost-benefit
30 analysis on the variance.

31 **39-21.3-13. Technology advisory committee established.** -- There is established a
32 technology advisory committee consisting of:

33 (1) Four (4) persons from the private sector having training or experience in information
34 or telecommunication systems and technologies, one of whom shall be appointed by the speaker

1 of the house of representatives, one by the minority leader of the house of representatives, one by
2 the president of the senate and one by the minority leader of the senate; and

3 (2) Four (4) state employees with training or experience in such systems or technologies,
4 who shall be appointed by the governor.

5 The technology advisory committee shall review reports submitted by the information
6 and telecommunication system's executive steering committee or the chief information officer to
7 the general assembly and shall provide technical expertise and advice to the general assembly.

8 The technology advisory committee shall meet at least once every six (6) months.

9 **39-21.3-14. Reports. --** (a) Not later than October first, annually, the chief information
10 officer shall submit to the governor and the general assembly:

11 (1) The updated strategic plan established under section 39-21.1-7; and

12 (2) A report on the activities of the department of information technology and cost
13 savings and improvements in the efficiency of information and telecommunication systems of
14 state agencies, which are attributable to the efforts of said department.

15 (b) Not later than October first, annually, the chief information officer shall submit a
16 report to the governor and the general assembly:

17 (1) Specifying potential opportunities for increasing the efficiency or reducing the costs
18 of the state's information and telecommunication systems; and

19 (2) Including a plan to realize such opportunities.

20 **39-21.3-15. Century date change effect. --** (a) As used in this section, "century date
21 change effect" means the management, manipulation, processing, comparing, sequencing and
22 other use of date data, including single and multi-century formulae and leap years, by hardware,
23 software or firmware, which:

24 (1) May cause or in any way affect abnormal ending dates or generate incorrect or invalid
25 values involving such dates; or

26 (2) Is intended to produce, reflect or otherwise reference accurate date-related data
27 interface functionality, including the indication of century.

28 (b) The chief information officer shall prepare a plan for managing the century date
29 change as it will affect the various information systems of the state. Each state agency shall
30 perform an assessment of the condition of its system, including computer hardware, firmware,
31 operating systems and all software applications, to determine the extent of modifications, repairs
32 or replacements required. Each state agency shall submit such assessment to the chief information
33 officer not later than October 1, 2012. The chief information officer shall prioritize a list of
34 projects to complete modifications, repairs or system or application replacements. The chief

1 information officer shall establish a certification process to assure that the century date change
2 has been adequately managed for critical state information systems.

3 (c) The chief information officer may contract on behalf of any state agency, institution,
4 office, department, commission, council or instrumentality or any municipality, to ensure that any
5 software program used by such entity successfully manages the century date change effect on
6 computers, operating systems and all software applications. The chief information officer may
7 only enter into such a contract upon request of the entity and certification by the entity, to the
8 satisfaction of the chief information officer, that the entity has an immediate century date change
9 effect which needs to be managed in order to avoid adversely affecting critical functions.

10 (d) The chief information officer shall, within available appropriations, provide technical
11 assistance to any municipality requesting such assistance to help manage the century date change
12 effect on computers, operating systems and software applications.

13 **39-21.3-16. Management of century date change effect by municipalities –**
14 **Municipal authority to contract for services – Cooperative purchasing plans. -- (a)**
15 Notwithstanding the provisions of any municipal ordinance, special act or charter governing
16 competitive bidding requirements, the chief executive officer of a municipality may, not later
17 than December 31, 2012, enter into a contract to ensure that any software program used by the
18 municipality successfully manages the century date change effect, as defined in section 39-21.2-
19 15, on computers, operating systems and all software applications, without meeting such
20 competitive bidding requirements, provided the chief executive officer enters into a contract with
21 a vendor that has been approved by the chief information officer, as defined in section 39-21.2-1,
22 to provide such services.

23 (b) The chief information officer may join with other state governments, political
24 subdivisions of this state or nonprofit organizations in cooperative purchasing plans to contract
25 for services to manage the century date change effect when the best interest of the state and
26 municipalities would be served. The chief information officer shall make known to the chief
27 executive officer of each municipality the existence of such cooperative plans.

28 **39-21.3-17. Professional development of information technology employees. -- The**
29 chief information officer shall, within available appropriations, provide for the professional
30 development of the state's information technology employees.

31 **39-21.3-18. Definitions. --** As used in this section and sections 39-21.2-19 to 39-21.2-36,
32 inclusive:

33 (1) "Contract" means a contract for state agency information system or
34 telecommunication system facilities, equipment or services, which is awarded pursuant to this

1 chapter.

2 (2) "Contractor" means a business entity or individual who is awarded a contract or an
3 amendment to a contract.

4 (3) "Subcontractor" means a subcontractor of a contractor for work under a contract or an
5 amendment to a contract.

6 **39-21.3-19. Contracts, subcontracts, amendments to include state specifications. --**

7 Each contract, subcontract or amendment to a contract or subcontract shall include any
8 specifications established by the director of the department of administration and/or chief
9 purchasing officer and/or the purchasing agent to ensure that all policies, procedures, processes
10 and control systems, including hardware, software and protocols, which are established or
11 provided by the contractor or subcontractor, shall be compatible with and support the state's core
12 financial systems, including, but not limited to, accounting, payroll, time and attendance, and
13 retirement systems.

14 **39-21.3-20. Subcontract awards. -- (a) No contractor shall award a subcontract for work**
15 **under a contract or for work under an amendment to a contract without the approval of the chief**
16 **information officer or his or her designee of:**

17 (1) The selection of the subcontractor; and

18 (2) The provisions of the subcontract.

19 (b) Each such contractor shall file a copy of each executed subcontract or amendment to
20 the subcontract with the chief information officer, who shall maintain the subcontract or
21 amendment as a public record, as defined in chapter 38-2.

22 **39-21.3-21. Public record defined. --** For purposes of this section and sections 39-21.2-

23 22 to 39-21.2-27, inclusive, "public record" means a public record, as defined in chapter 38-2,
24 and also includes any recorded data or information relating to the conduct of the public's business
25 prepared, owned, used, received or retained by a contractor or subcontractor for work under a
26 contract, subcontract or amendment to a contract or subcontract, whether such data or information
27 be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other
28 method.

29 **39-21.3-22. Ownership rights and integrity of public records under a contract,**

30 **subcontract or amendment. -- (a) No contractor or subcontractor, or employee or agent of a**
31 **contractor or subcontractor, shall have any ownership rights or interest in:**

32 (1) Any public records which the contractor, subcontractor, employee or agent possesses,
33 modifies or creates pursuant to a contract, subcontract or amendment to a contract or subcontract;

34 or

1 (2) Any modifications by such contractor, subcontractor, employee or agent to such
2 public records.

3 (b) No contractor or subcontractor, or employee or agent of a contractor or subcontractor,
4 shall impair the integrity of any public records which the contractor, subcontractor, employee or
5 agent possesses or creates.

6 (c) Public records which a contractor, subcontractor, or employee or agent of a contractor
7 or subcontractor, possesses, modifies or creates pursuant to a contract, subcontract or amendment
8 to a contract or subcontract shall at all times and for all purposes remain the property of the state.

9 **39-21.3-23. Application of freedom of information act to public records provided to**
10 **contractor or subcontractor.** -- (a) Any public record which a state agency provides to a
11 contractor or subcontractor shall remain a public record.

12 (b) With regard to any public record, the state agency and the contractor or subcontractor
13 shall have a joint and several obligation to comply with the obligations of the state agency under
14 the freedom of information act, and chapter 38-2, provided the determination of whether or not to
15 disclose a particular record or type of record shall be made as provided by said chapter and by the
16 general laws.

17 **39-21.3-24. Nondisclosure of public records by contractor or subcontractor.** --
18 Notwithstanding any other law to the contrary, including, but not limited to, any provisions of
19 chapter 38-2, no contractor or subcontractor, or employee or agent of a contractor or
20 subcontractor, shall disclose to the public any public records:

21 (1) Which it possesses, modifies or creates pursuant to a contract, subcontract or
22 amendment to a contract or subcontract; and

23 (2) Which the state agency:

24 (i) Is prohibited from disclosing pursuant to state or federal law in all cases;

25 (ii) May disclose pursuant to state or federal law only to certain entities or individuals or
26 under certain conditions; or

27 (iii) May withhold from disclosure pursuant to state or federal law.

28 No provision of this section shall be construed to prohibit any such contractor from
29 disclosing such public records to any of its subcontractors to carry out the purposes of its
30 subcontract.

31 **39-21.3-25. Prohibition on selling, marketing or otherwise profiting from public**
32 **records.** -- No contractor or subcontractor, or employee or agent of a contractor or subcontractor,
33 shall sell, market or otherwise profit from the disclosure or use of any public records which are in
34 its possession pursuant to a contract, subcontract or amendment to a contract or subcontract,

1 except as authorized in the contract, subcontract or amendment.

2 **39-21.3-26. Notice to chief information officer of violations.** -- Any contractor or
3 subcontractor, or employee or agent of a contractor or subcontractor, which learns of any
4 violation of the provisions of this chapter shall, no later than seven (7) calendar days after
5 learning of such violation, notify the chief information officer of such violation.

6 **39-21.3-27. Remedies and penalties for violations.** -- (a) If any person violates any
7 provision of section 39-21.2-24, 39-21.2-25 or 39-21.2-26, the attorney general may bring an
8 action against such person in the superior court for Providence county seeking:

9 (1) Damages on behalf of the state for such violation;

10 (2) Restitution for damages suffered by any person as a result of the violation; or

11 (3) Imposition and recovery of a civil penalty of not more than fifty thousand dollars for
12 the violation.

13 (b) In addition to the remedies under subsection (a) of this section, any person aggrieved
14 by a violation of any provision of section 39-21.2-24, 39-21.2-25 or 39-21.2-26 may bring an
15 action in Superior Court to recover any damages suffered as a result of such violation.

16 (c) In any action brought under subsection (a) or (b) of this section, the court may:

17 (1) Order disgorgement of any profits or other benefits derived as a result of a violation
18 of any provision of section 39-21.2-24, 39-21.2-25 or 39-21.2-26;

19 (2) Award punitive damages, costs or reasonable attorneys' fees; or

20 (3) Order injunctive or other equitable relief. Proof of public interest or public injury
21 shall not be required in any action brought under subsection (a) or (b) of this section. No action
22 may be brought under subsection (a) or (b) of this section more than three (3) years after the
23 occurrence of such violation.

24 (d) Any person who knowingly and willfully violates any provision of section 39-21.2-
25 24, 39-21.2-25 or 39-21.2-26 shall, for each such violation, be fined not more than five thousand
26 dollars (\$5,000) or imprisoned not less than one year nor more than five (5) years, or be both
27 fined and imprisoned.

28 **39-21.3-28. General assembly access to state agency records under contracts,**
29 **subcontracts and amendments thereto.** -- Each contract, subcontract or amendment to a
30 contract or subcontract shall include provisions ensuring that the joint committee on legislative
31 services and each nonpartisan office of the general assembly shall continue to have access to state
32 agency records that is not less than the access that said committee and such offices have on July
33 1, 2012.

34 **39-21.3-29. Interagency agreement between joint committee on legislative services**

1 **and chief information officer.** -- The joint committee on legislative services and the chief
2 information officer may, by interagency agreement, provide for the general assembly:

3 (1) To receive information system and telecommunication system facilities, equipment
4 and services pursuant to contracts, subcontracts or amendments to contracts or subcontracts; and

5 (2) To interconnect with state agency information systems and telecommunication
6 systems.

7 **39-21.3-30. Interagency agreement between chief court administrator and chief**
8 **information officer.** -- The chief court administrator and the chief information officer may, by
9 interagency agreement, provide for the judicial department:

10 (1) To receive information system and telecommunication system facilities, equipment
11 and services pursuant to contracts, subcontracts or amendments to contracts or subcontracts; and

12 (2) To interconnect with state agency information systems and telecommunication
13 systems.

14 **39-21.3-31. Interagency agreements between constitutional officers and chief**
15 **information officer.** -- The office of the governor, lieutenant governor, treasurer, attorney
16 general and/or the secretary of the state and the chief information officer may, by interagency
17 agreement, provide for such office:

18 (1) To receive information system and telecommunication system facilities, equipment
19 and services pursuant to contracts, subcontracts or amendments to contracts or subcontracts; and

20 (2) To interconnect with other state agency information systems and telecommunication
21 systems.

22 **39-21.3-32. Continuity of systems in event of expiration or termination of contract,**
23 **amendment or subcontract or default of contractor or subcontractor.** -- Each contract,
24 subcontract or amendment to a contract or subcontract shall include provisions ensuring
25 continuity of state agency information system and telecommunication system facilities,
26 equipment and services, in the event that work under such contract, subcontract or amendment is
27 transferred back to the state or transferred to a different contractor, upon the expiration or
28 termination of the contract, subcontract or amendment or upon the default of the contractor or
29 subcontractor. Such provisions shall include, but not be limited to:

30 (1) Procedures for the orderly transfer to the state of:

31 (i) Such facilities and equipment;

32 (ii) All software created or modified pursuant to the contract, subcontract or amendment;

33 and

34 (iii) All public records which the contractor or subcontractor possesses or creates

1 pursuant to such contract, subcontract or amendment; and

2 (2) Procedures for granting former state employees who were hired by such contractor or
3 subcontractor the opportunity for reemployment with the state.

4 **39-21.3-33. Review of contracts and amendments entered into pursuant to**
5 **department of administration requests for proposals. -- (a) No contracts or amendments to**
6 **contracts for information system or telecommunication system facilities, equipment or services,**
7 **which are entered into by any state agency:**

8 (1) Pursuant to the request for proposal issued by the department of administration prior
9 to the establishment of the department of information technology; or

10 (2) In the event such request for proposal is withdrawn, suspended or superseded,
11 pursuant to any similar request for proposal issued by the department of administration or the
12 department of information technology, shall be effective except as provided in this section and
13 sections 39-21.2-34 and 39-21.2-35.

14 (b) Upon the execution of any such contract or amendment, and upon the execution of
15 any subsequent contract or amendment, the state agency shall promptly file the contract or
16 amendment with the state auditor general.

17 (c) Not later than seventy-five (75) days after any such contract or amendment is filed
18 with the state auditor general, such auditor:

19 (1) Shall conduct an independent evaluation of the contract or amendment to determine
20 whether the provisions of the contract or amendment serve the best interests of the state,
21 including, but not limited to:

22 (i) Efficiency;

23 (ii) Economy;

24 (iii) Contractor qualifications, including, but not limited to, capacity for performance and
25 accountability; and

26 (iv) Effective delivery of services; and

27 (2) Shall submit a report on their findings and conclusions, and the contract or
28 amendment, to the general assembly, through the clerks of the house of representatives and the
29 senate. The state auditor general may, at any time before or after receipt of any such contract or
30 amendment, execute contracts with independent consultants for assistance in conducting such
31 evaluation and preparing such report.

32 (d) Upon receipt of a report and a contract or amendment from the state auditor general
33 under subsection (c) of this section, the speaker of the house of representatives and the president
34 of the senate shall refer the report and contract or amendment to the joint standing committees of

1 the general assembly having cognizance of matters relating to appropriations and the budgets of
2 state agencies and government administration, for their review. Such contract or amendment shall
3 take effect forty-five (45) days after the state auditor general submits the report and contract or
4 amendment to the general assembly unless the general assembly rejects such contract or
5 amendment as a whole by a three- fifths (3/5) vote of either house.

6 **39-21.3-34. Disqualification of potential contractors and subcontractors which**
7 **participate in department of administration requests for proposals process. -- (a) No**
8 business entity or individual shall be awarded a contract or amendment to a contract which is
9 subject to the provisions of section 39-21.2-45, if the business entity or individual directly or
10 indirectly participates in any of the following activities on behalf of the state concerning such
11 contract or amendment or any other contract or amendment to a contract for state agency
12 information system or telecommunication system facilities, equipment or services: Preparation of
13 the request for information or request for proposals, development of bid specifications or proposal
14 requirements, evaluation of bids or proposals, or negotiations with potential contractors.

15 (b) No business entity or individual who is awarded any such contract or amendment may
16 award a subcontract for any work under such contract or amendment to any business entity or
17 individual who has participated in any of such activities listed in subsection (a) of this section.

18 **39-21.3-35. Hiring of state employees by contractors and subcontractors. -- With**
19 respect to any state employee whose position is eliminated or who is laid off as a result of any
20 contract or amendment to a contract which is subject to the provisions of this chapter:

21 (1) The contractor shall hire the employee, upon application by the employee, unless the
22 employee is hired by a subcontractor of the contractor; or

23 (2) The employee may transfer to any vacant position in state service for which he or she
24 is qualified, to the extent allowed under the provisions of existing collectively bargained
25 agreements and the general statutes. If the contractor or any such subcontractor hires any such
26 state employee and does not provide the employee with fringe benefits which are equivalent to, or
27 greater than, the fringe benefits that the employee would have received in state service, the state
28 shall, for two (2) years after the employee terminates from state service, provide to the employee
29 either:

30 (i) The same benefits that he or she received from the state; or

31 (ii) Compensation in an amount which represents the difference in the value of the fringe
32 benefits that he or she received when in state service and the fringe benefits that he or she
33 receives from the contractor or subcontractor.

34 **39-21.3-36. Disqualification of potential contractors and subcontractors for past**

1 **nonperformance.** -- No contract or subcontract for state agency information system or
2 telecommunication system facilities, equipment or services may be awarded to any business
3 entity or individual pursuant to this chapter if such business entity or individual previously had a
4 contract with the state or a state agency to provide information system or telecommunication
5 system facilities, equipment or services and such prior contract was finally terminated by the state
6 or a state agency within the previous five (5) years for the reason that such business entity or
7 individual failed to perform or otherwise breached a material obligation of the contract related to
8 information system or telecommunication system facilities, equipment or services. If the
9 termination of any such previous contract is contested in an arbitration or judicial proceeding, the
10 termination shall not be final until the conclusion of such arbitration or judicial proceeding. If the
11 fact-finder determines, or a settlement stipulates, that the contractor failed to perform or
12 otherwise breached a material obligation of the contract related to information system or
13 telecommunication system facilities, equipment or services, any award of a contract pursuant to
14 said chapter or sections during the pendency of such arbitration or proceeding shall be rescinded
15 and the bar provided in this section shall apply to such business entity or individual.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - ESTABLISHING THE STATE
DEPARTMENT OF INFORMATION TECHNOLOGY

1 This act would create a new state department of information technology. The department
2 would be operated by a chief information officer appointed by the governor, with the advice and
3 consent of the senate. The new department would have authority and responsibility to maintain
4 and develop state and municipal telecommunication facilities and to purchase appropriate
5 equipment and services. The chief information officer would be directed to establish rules and
6 regulations to advance the provisions of this chapter.

7 This act would take effect upon passage.

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