



Phil Mullin

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 79**

123rd General Assembly  
(As Introduced)

**Reps. Netzley, Trakas, Hood, Boyd**

---

### **BILL SUMMARY**

- Requires the Director of Administrative Services to adopt rules mandating computer proficiency and associated testing for certain state employees and to generally conduct that testing, and excludes the computer proficiency requirements from the scope of collective bargaining under the Public Employee Collective Bargaining Law.
- Creates the State Computer Purchasing Committee for the purpose of employing an Administrator of Computer Purchasing to coordinate the purchase, lease, or other use of computer systems, services, software, or related accessories by state agencies.

---

### **CONTENT AND OPERATION**

#### **Employee computer proficiency**

##### **Covered state employees**

The bill requires every employee of a state agency paid by warrant of the Auditor of State whose responsibilities and duties include the operation of or work with a computer or computer system to have specified proficiency in the use of that computer or computer system and associated software (sec. 124.201(A)).

##### **Testing program**

The Director of Administrative Services must establish and operate a *testing program* to determine whether employees subject to the bill's requirements are computer proficient. When an appointing authority assigns an employee to operate or work with a computer or computer system, or upon the installation of a new computer, computer system, or software associated with a computer or computer system that an appointing authority intends an employee to use and that the

appointing authority determines is sufficiently different from any prior computer, computer system, or associated software with which the employee is proficient so as to require additional training for the effective utilization of the computer, computer system, and associated software, the employee must be tested to determine computer proficiency with respect to the computer, computer system, and associated software. (Sec. 124.201(B).)

If an *employee is not proficient* as determined by the Director, the employee must be placed on *probationary status* for six months or until the employee becomes computer proficient, whichever period is less. During the probation period, the employee must be tested at least once every two weeks to determine the employee's computer proficiency. If, at the end of six months, the employee is not computer proficient, the employee must be treated as though the appointing authority had abolished the employee's position, and the employee has all rights accorded by the Civil Service Law to employees whose positions are abolished. (Sec. 124.201(B).)

### **Implementing rules**

The bill requires the Director of Administrative Services to adopt rules, in accordance with the Administrative Procedure Act, to implement the bill's computer proficiency requirements. These rules must extend to at least the following: (1) testing of employees to be conducted either by the Department of Administrative Services or by employees of the entities from which the computer, computer system, or software is purchased or leased, and, if those entities conduct the testing, a requirement that the entities test only those employees who use the computer, computer system, or software sold or leased by the entities, (2) minimum proficiency levels required, which in the case of an individual employee must pertain to the specific tasks required of that employee in the use of a computer, computer system, or software associated with a computer or computer system for the employee's particular job classification, (3) payment for testing conducted, (4) retesting of employees, when an appointing authority so requests, for failure to continue to be computer proficient on a computer, computer system, or software package, and (5) other rules that the Director determines necessary to implement the bill's computer proficiency requirements. (Sec. 124.201(C).)

### **Initial rules and testing**

Within 120 days after the bill's effective date, the Director must adopt rules for the implementation of computer proficiency testing and within one year after that date conduct the bill's required testing. Except as otherwise provided in a collective bargaining agreement entered into before the bill's effective date, for *current employees*, the Director, within one year after the adoption of those rules,



must conduct the bill's required testing to determine whether or not those employees are computer proficient for the computer, computer system, or software associated with the computer or computer system on which the employee performs tasks required by the employee's appointing authority and as required by the employee's job classification. (Section 3.)

**Exception from collective bargaining**

The bill provides that its computer proficiency requirements are not appropriate subjects for collective bargaining under the Public Employee Collective Bargaining Law (sec. 4117.08(B)).

**Powers and duties of the Administrator of Computer Purchasing**

**Prohibition**

The bill prohibits a state agency with the authority to contract separately for the purchase, lease, or other use of computer systems, services, software, or related accessories, or the Department of Administrative Services when entering into contracts for computer services for state agencies, from entering into a contract for the purchase, lease, or other use of computer systems, services, software, or related accessories without the approval of the Administrator of Computer Purchasing employed by the State Computer Purchasing Committee (secs. 125.021 and 125.025(A)) (see "**State Computer Purchasing Committee**" below).

**Acceptable computer systems, etc., list**

The Administrator must develop, and at least annually update, a list of acceptable computer systems, services, software, and related accessories that the Director of Administrative Services and all other state agencies must use in selecting a computer system or computer services, software, or related accessories. In developing the list, the Administrator must consider (1) the compatibility of computer systems, services, software, and related accessories to existing and future computers or computer systems that are or will be owned, leased, or otherwise operated by state agencies, (2) the needs of particular state agencies for certain types of computer systems, services, software, and other related accessories, (3) the quality and quantity of the work product necessary to meet the needs of the state and state agencies, and (4) any other factor the Administrator considers appropriate to provide the most efficient and comprehensive state-of-the-art computer system for the state and its agencies. Within 30 days after developing or updating the list, the Administrator must provide it to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leaders of

the House and Senate, the Director of Administrative Services, and all state agencies. (Sec. 125.025(B).)

### **Administrator contract approval**

When the Director or any state agency desires to enter into a contract for the purchase, lease, or other use of computer systems, services, software, or other related accessories, the Director or state agency must notify the Administrator, who must approve or reject the contract according to rules the Administrator must adopt under the bill (see below). The Administrator must not approve a contract unless the computer system, services, software, or other related accessories are on the list the Administrator prepares, unless the Administrator determines that (1) the contract is in the best interests of the state and the state agency and (2) the computer system, services, software, or other related accessories that are the subject of the contract would be qualified under the standards specified in the bill for inclusion on the list. (Sec. 125.024(C).)

### **Miscellaneous provisions**

The Director must provide the Administrator with the personnel, supplies, and office space the Administrator requests to perform duties under the bill, and the Administrator must adopt rules in accordance with the Administrative Procedure Act to implement the bill's requirements relating to purchases, leases, or other uses of computer systems, etc. (sec. 125.024(D) and (E)).

### **State Computer Purchasing Committee**

#### **Employment of the Administrator of Computer Purchasing**

The bill creates a 15-member State Computer Purchasing Committee whose sole duty is to employ the Administrator of Computer Purchasing. A two-thirds affirmative vote of the total number of nonlegislative members of the Committee is necessary to employ the Administrator, and the affirmative vote of a majority of these members is necessary for the Committee to act on other matters coming before it. (Sec. 124.024(A) and (C).)

Within 90 days after the initial meeting of the Committee, the Committee must employ the initial Administrator. Thereafter, within 90 days after a vacancy occurs in the position of Administrator, the Committee must employ a new Administrator. Each person employed as an Administrator must have at least ten years recognized experience in the purchase, design, operation, or use of computer systems, and each Administrator serves at the Committee's pleasure. The Administrator must receive an annual salary of \$75,000 and annual salary



increases based on the average salary increases of the directors of cabinet departments for that year, not to exceed 5% per year. (Sec. 125.024(H).)

### **Committee members**

The Governor must appoint the following seven members to the Committee with the advice and consent of the Senate: (1) two representatives of the insurance industry, one of whom represents domestic insurance companies and one of whom represents foreign insurance companies, (2) one representative of the banking industry, (3) one representative of manufacturers, (4) one representative of a chamber of commerce organization, (5) one representative of retail merchants, and (6) one representative of the National Federation of Independent Businesses.

The Speaker of the House of Representatives must appoint to the Committee two House members not of the same political party, and the President of the Senate must appoint to the Committee two Senate members not of the same political party. The legislator members of the Committee serve ex officio and in an advisory capacity and have no voting rights on matters coming before the Committee. Their membership on the Committee is not considered to be holding a public office. Finally, the other members of the Committee are the Directors of Administrative Services, Human Services, and Public Safety and the Administrator of Workers' Compensation, or their designees. (Sec. 125.024(A) and (C).)

The Governor, House Speaker, and Senate President must make their initial appointments to the Committee within 90 days after the bill's effective date. Members appointed by the House Speaker and Senate President must serve for as long as they are members of the house from which they were appointed, except that the House Speaker or Senate President may remove any member the presiding officer appointed for any reason. Of the Governor's initial appointments, two must serve terms ending two years after the bill's effective date, two must serve terms ending three years after the bill's effective date, and three must serve terms ending four years after the bill's effective date. Thereafter, the Governor's appointees must serve four-year terms, each term ending generally on the same day of the same month as did the term that it succeeds. However, if a successor member has not been appointed by the end of the incumbent member's term, the incumbent member must continue in office until the appointment takes place or until a period of 60 days has elapsed, whichever occurs first. The Governor may remove any member the Governor appoints for malfeasance, misfeasance, or nonfeasance. (Sec. 125.024(B) and (G).)

Any Committee member appointed to fill a vacancy occurring prior to the expiration date of the term for which the Committee member's predecessor was



appointed must hold office for the remainder of that term. Committee members are eligible for reappointment. (Sec. 125.024(B).)

Each of the seven Committee members appointed by the Governor must receive an amount fixed by the Director of Administrative Services, under a provision of current law that requires the Director to set the compensation of executive agency officials, for each day employed in the discharge of Committee member official duties. Each of the 15 Committee members must receive their actual and necessary expenses incurred in the performance of those duties. (Sec. 124.024(D).)

**Committee meetings, staff, and nature**

Within 30 days after the date on which all members are appointed to the Committee, the Committee must meet at the time and place the Director of Administrative Services determines. At the initial meeting, the Committee must organize by electing a chairperson and any other officers that it considers appropriate. Thereafter, the Committee must meet at the times and place that it considers necessary to fulfill its duties. (Sec. 125.024(E).)

Finally, under the bill, the Committee is a part of the Department of Administrative Services for administrative purposes only, and the Department must provide the Committee with personnel, supplies, and office space as the Committee requests to conduct its business (sec. 125.024(F)).

---

**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-22-99	pp. 114-115

H0079-I.123/rss

