

Senate Bill No. 834

CHAPTER 533

An act to amend Sections 12804, 13975, 14931, 14931.1, 15252, 15275, 15277, and 19857 of, to add Section 14930 to, and to add Chapter 5.5 (commencing with Section 11531) to Part 1 of Division 3 of Title 2 of, to repeal Sections 15276 and 15279 of, and to repeal Article 2 (commencing with Section 11792) and Article 3 (commencing with Section 11796) of Chapter 7.5 of Division 3 of Title 2 of, the Government Code, relating to information technology.

[Approved by Governor September 28, 2006. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 834, Figueroa. Department of General Services: information technology.

(1) Existing law, the Governor's Reorganization Plan No. 2 (GRP No. 2), effective July 9, 2005, established the Department of Technology Services in state government, under the Director of Technology Services, within the State and Consumer Services Agency, and the Technology Services Board, with a specified membership, within the department. That plan authorized the department to acquire, install, equip, maintain, and operate new or existing business telecommunications systems and services and requires it to coordinate all matters affecting statewide business telecommunications policy and planning. The plan also limited the authority of the Department of General Services to acquire, install, equip, maintain, and operate communications systems and facilities to public safety agencies.

The plan consolidated and transferred the functions of the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, and the Telecommunications Division of the Department of General Services to the department and required the director to administer the department pursuant to a written plan of operations developed with the advice of the board.

The plan also created the Department of Technology Services Revolving Fund within the State Treasury, which is continuously appropriated and available for encumbrance without regard to fiscal years.

Existing law requires the Legislative Counsel to prepare for introduction not later than the next Regular Session of the Legislature occurring more than 90 days after the effective date of GRP No. 2, a bill effecting these changes in the statutes to reflect the changes made by the plan.

This bill would make the statutory codification changes made necessary by the plan taking effect on July 9, 2005, except that it would instead

provide that the Department of Technology Services Revolving Fund would be subject to appropriation by the Legislature.

(2) Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.

This bill would establish in state government the office of State Chief Information Officer, to be appointed by the Governor, subject to Senate confirmation, and set forth the duties of the State Chief Information Officer in the coordination of state information technology services.

(3) This bill would incorporate additional changes to Section 12804 of the Government Code, proposed by AB 1278, to be operative only if AB 1278 and this bill are enacted, both bills amend the respective section, and this bill is enacted after AB 1278.

The people of the State of California do enact as follows:

SECTION 1. Chapter 5.5 (commencing with Section 11531) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5.5. TECHNOLOGY

Article 1. General Provisions and Definitions

11531. This chapter shall be known and may be cited as the Technology Act of 2005.

11532. For purposes of this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Board member" means a member of the Technology Services Board.

(b) "Department" means the Department of Technology Services established by this chapter.

(c) "Board" means the Technology Services Board created pursuant to Section 11535.

(d) "Director" means the Director of Technology Services.

(e) "Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, and business telecommunications systems and services.

(f) "Business telecommunications systems and services" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related

interactions between people and machines. Public safety communications are excluded from this definition.

(g) “Public agencies” include, but are not limited to, all state and local governmental agencies in the state, including cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

Article 2. Department of Technology Services

11534. (a) There is in state government, in the State and Consumer Services Agency, the Department of Technology Services.

(b) The purpose of this article is to establish a general purpose technology services provider to serve the common technology needs of executive branch entities with accountability to customers for providing secure services that are responsive to client needs at a cost representing best value to the state.

(c) The purpose of this chapter is to improve and coordinate the use of technology and to coordinate and cooperate with all public agencies in the state in order to eliminate duplications and to bring about economies that could not otherwise be obtained.

11535. (a) There is, in the department, the Technology Services Board.

(b) The board shall consist of 13 members, as follows:

(1) The Governor’s designee, who shall serve as the chair of the board.

(2) The Director of Finance, who shall serve as vice chair of the board.

(3) The Controller.

(4) The Secretaries of Food and Agriculture, the Business, Transportation and Housing Agency, the Environmental Protection Agency, the California Health and Human Services Agency, the Labor and Workforce Development Agency, the Resources Agency, the State and Consumer Services Agency, the Department of Veterans Affairs, and the Youth and Adult Correctional Agency.

(5) The Director of the Office of Emergency Services.

11536. The board shall meet not less than once each quarter. A quorum shall consist of seven members of the board. All decisions of the board shall be made by a majority vote of a quorum of the board.

11537. (a) The board shall engage an independent firm of certified public accountants to conduct an annual financial audit of all accounts and transactions of the department. The audit shall be conducted in accordance with generally accepted government auditing standards. The audited financial statements shall be presented to the board, the Governor, and the Legislature not more than 120 days after the close of the fiscal year.

(b) The board may arrange for other audits as are necessary or prudent to ensure proper oversight and management of the department.

11538. The director shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The director shall act as executive officer of the board.

11539. The director shall be responsible for managing the affairs of the department and shall perform all duties, exercise all powers and jurisdiction, and assume and discharge all responsibilities necessary to carry out the purposes of this chapter. The director shall employ professional, clerical, technical, and administrative personnel as necessary to carry out this chapter.

11540. (a) The director shall propose for board consideration and approval an annual budget for departmental operations. As part of the annual budget development, the department shall determine the impact of any rebates, abatements, or rate reductions resulting from excess reserve funds. At least 60 days before submitting the proposed budget to the board, the director shall submit the proposed budget to the Department of Finance. Submittal of the budget to the Department of Finance shall be in a format and timeframe determined by the Department of Finance. The Department of Finance shall prepare a report to the board evaluating the reasonableness of the proposed budget and any significant impact the department's budget is likely to have upon the budgets of other departments.

(b) The director shall propose for board consideration rates for department services based on a formal rate methodology approved by the board. At least 60 days before submitting proposed rates to the board, the director shall submit the proposed rates to the Department of Finance. Submittal of the rates to the Department of Finance shall be in a format and timeframe determined by the Department of Finance. The Department of Finance shall prepare a report to the board evaluating the reasonableness of the proposed rates and any significant impact the department's rates are likely to have upon the budgets of other departments.

(c) It is the intent of the Legislature that this section supersede Section 11540 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.

11541. (a) The department may acquire, install, equip, maintain, and operate new or existing business telecommunications systems and services. Acquisitions for information technology goods and services shall be made pursuant to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. To accomplish that purpose, it may enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other acts that will provide adequate and efficient business telecommunications systems and services. Any system established shall be made available to all public agencies in the state on terms that may be agreed upon by the agency and the department.

(b) With respect to business telecommunications systems and services, the department may do all of the following:

(1) Provide representation of public agencies before the Federal Communications Commission in matters affecting the state and other public agencies regarding business telecommunications systems and services issues.

(2) Provide, upon request, advice to public agencies concerning existing or proposed business telecommunications systems and services between any and all public agencies.

(3) Recommend to public agencies rules, regulations, procedures, and methods of operation that it deems necessary to effectuate the most efficient and economical use of business telecommunications systems and services within the state.

(4) Carry out the policies of this chapter.

(c) The department has responsibilities with respect to business telecommunications systems, services, policy, and planning, which include, but are not limited to, all of the following:

(1) Assessing the overall long-range business telecommunications needs and requirements of the state considering both routine and emergency operations for business telecommunications systems and services, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(2) Developing strategic and tactical policies and plans for business telecommunications with consideration for the systems and requirements of public agencies.

(3) Recommending industry standards, service level agreements, and solutions regarding business telecommunications systems and services to assure multiuser availability and compatibility.

(4) Providing advice and assistance in the selection of business telecommunications equipment to ensure all of the following:

(A) Ensuring that the business telecommunications needs of state agencies are met.

(B) Ensuring that procurement is compatible throughout state agencies and is consistent with the state's strategic and tactical plans for telecommunications.

(C) Ensuring that procurement is designed to leverage the buying power of the state and encourage economies of scale.

(5) Providing management oversight of statewide business telecommunications systems and services developments.

(6) Providing for coordination of, and comment on, plans and policies and operational requirements from departments that utilize business telecommunications systems and services as determined by the department.

(7) Monitoring and participating, on behalf of the state, in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state governmental business telecommunications activities.

(d) The department shall develop and describe statewide policy on the use of business telecommunications systems and services by state agencies. In the development of that policy, the department shall assure that access to state business information and services is improved, and that the policy is cost effective for the state and its residents. The department shall develop guidelines that do all of the following:

(1) Describe what types of state business information and services may be accessed using business telecommunications systems and services.

(2) Characterize the conditions under which a state agency may utilize business telecommunications systems and services.

(3) Characterize the conditions under which a state agency may charge for information and services.

(4) Specify pricing policies.

(5) Provide other guidance as may be appropriate at the discretion of the department.

(e) It is the intent of the Legislature that this section supersede Section 11541 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.

11542. (a) The Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center are consolidated within, and their functions are transferred to, the department.

(b) The business telecommunications systems and services functions of the Telecommunications Division of the Department of General Services are transferred to the department.

(c) Except as expressly provided otherwise in this chapter, the department is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, and the business telecommunications systems and services functions of the Telecommunications Division of the Department of General Services. Any reference in statutes, regulations, or contracts to those entities with respect to the transferred functions shall be construed to refer to the Department of Technology Services unless the context clearly requires otherwise.

(d) No contract, lease, license, or any other agreement to which the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, or the Telecommunications Division of the Department of General Services, with respect to the business telecommunications systems and services functions, is a party, shall be void or voidable by reason of this chapter, but shall continue in full force and effect, with the department assuming all of the rights, obligations, and duties of the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, or the Telecommunications Division of the Department of General Services, respectively.

(e) Notwithstanding subdivision (e) of Section 11793 and subdivision (e) of Section 11797, on and after the effective date of this chapter, the balance of any funds available for expenditure by the Stephen P. Teale Data Center, the California Health and Human Services Agency Data

Center, and the Telecommunications Division of the Department of General Services, with respect to business telecommunications systems and services functions in carrying out any functions transferred to the department by this chapter, shall be transferred to the Department of Technology Services Revolving Fund created by Section 11544, and shall be made available for the support and maintenance of the department.

(f) All references in statutes, regulations, or contracts to the former Stephen P. Teale Data Center Fund or the California Health and Human Services Data Center Revolving Fund shall be construed to refer to the Department of Technology Services Revolving Fund unless the context clearly requires otherwise.

(g) All books, documents, records, and property of the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, excluding the Systems Integration Division, and the Telecommunications Division of the Department of General Services, with respect to business telecommunications systems and services functions, shall be transferred to the department.

(h) (1) All officers and employees of the former Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, and the Telecommunications Division of the Department of General Services, with respect to business telecommunications systems and services functions, are transferred to the department.

(2) The status, position, and rights of any officer or employee of the Stephen P. Teale Data Center, the California Health and Human Services Agency Data Center, and the Telecommunications Division of the Department of General Services, with respect to business telecommunications systems and services functions, shall not be affected by the transfer and consolidation of their functions to the department.

11543. (a) The director shall confer as frequently as necessary or desirable, but not less than once every quarter, with the board, on the operation and administration of the department. The director shall make available for inspection by the board or any board member, upon request, all books, records, files, and other information and documents of the department and recommend any matters as he or she deems necessary and advisable to improve the operation and administration of the department.

(b) The director shall make and keep books and records to permit preparation of financial statements in conformity with generally accepted accounting principles and any state policy requirements.

Article 3. Department of Technology Services Revolving Fund

11544. (a) The Department of Technology Services Revolving Fund, hereafter known as the fund, is hereby created within the State Treasury. The fund shall be administered by the director, pursuant to the department's plan of operations, to receive all revenues from the sale of technology or technology services provided for in this chapter and all other

moneys properly credited to the board and department from any other source, to pay, upon appropriation by the Legislature, all costs arising from this chapter, including, but not limited to, operating and other expenses of the board and department and costs associated with approved information technology projects, and to establish reserves. At the discretion of the director, segregated, dedicated accounts within the fund may be established.

(b) The fund shall consist of all of the following:

(1) Moneys appropriated and made available by the Legislature for the purpose of this chapter.

(2) Any other moneys that may be made available to the department for the purpose of this chapter from any other source, including the return from investments of moneys by the Treasurer.

(c) The department may collect payments from public agencies for providing services to those agencies that the agencies have contracted with the department to provide. The department may require monthly payments by client agencies for the services the agencies have contracted the department to provide. Pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the department, consistent with the annual budget of each department, to the fund. The department shall notify each affected state agency upon requesting the Controller to make the transfer.

(d) If the balance remaining in the fund at the end of any fiscal year exceeds 25 percent of the department's current fiscal year budget, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.

(e) It is the intent of the Legislature that this section supersede Section 11544 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.

11545. (a) There is in state government the office of the State Chief Information Officer. The State Chief Information Officer shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The State Chief Information Officer shall be a member of the Governor's cabinet.

(b) The duties of the State Chief Information Officer shall include, but not be limited to, all of the following:

(1) Advising the Governor on the strategic management and direction of the state's information technology resources.

(2) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology.

(3) Coordinating the activities of agency information officers, agency chief information officers, and the Director of Technology Services for purposes of integrating statewide technology initiatives, ensuring compliance with information technology policies and standards, and promoting alignment of information technology resources and effective management of information technology portfolios.

(4) Working to improve organizational maturity and capacity in the effective management of information technology.

(5) Establishing performance management and improvement processes to ensure state information technology systems and services are efficient and effective.

SEC. 2. Article 2 (commencing with Section 11792) of Chapter 7.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 3. Article 3 (commencing with Section 11796) of Chapter 7.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 4. Section 12804 of the Government Code is amended to read:

12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Technology Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the Fair Employment and Housing Commission; the California Science Center; the California Victim Compensation and Government Claims Board; the California African-American Museum; and the State Building and Standards Commission.

SEC. 4.5. Section 12804 of the Government Code is amended to read:

12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Technology Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the Fair Employment and Housing Commission; the California Science Center; the California Victim Compensation and Government Claims Board; the California African-American Museum; the State Building and Standards Commission; and the Alfred E. Alquist Seismic Safety Commission.

SEC. 5. Section 13975 of the Government Code is amended to read:

13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the State Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, the Department of Managed Health Care; and the California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

SEC. 6. Section 14930 is added to the Government Code, to read:

14930. This chapter shall not apply to Department of Justice public safety communications, including, but not limited to, communications operated pursuant to Chapter 2.5 (commencing with Section 15150) of Part 6 of Division 3 of Title 2.

SEC. 7. Section 14931 of the Government Code is amended to read:

14931. The department may acquire, install, equip, maintain, and operate new or existing public safety communications systems and facilities for public safety agencies. To accomplish that purpose, it may, in the name of the state, enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other acts that will provide adequate and efficient public safety communications systems. Any system established shall be available to all public agencies in the state on terms that may be agreed upon by the agency and the department.

SEC. 8. Section 14931.1 of the Government Code is amended to read:

14931.1. The department shall acquire, install, equip, maintain, and operate all new or replacement public safety communications systems operated by the state, excepting microwave equipment used exclusively for traffic signal and signing control, traffic metering, and roadway surveillance systems. To accomplish that purpose, it may, in the name of the state, enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other acts that will provide adequate and efficient microwave communications systems. Any system established shall be available to all public agencies in the state on terms that may be agreed upon by the public agency and the department.

SEC. 9. Section 15252 of the Government Code is amended to read:

15252. The purpose of this part is to improve and coordinate the use of public safety radio and other public safety communications facilities owned and operated by the state, and to coordinate and cooperate with cities, counties, and other political subdivisions thereof, in order to eliminate duplications and interferences, to bring about economies that could not otherwise be obtained.

SEC. 10. Section 15275 of the Government Code is amended to read:

15275. The Department of General Services may do all of the following:

(a) Provide adequate representation of local and state governmental bodies and agencies before the Federal Communications Commission in matters affecting the state and its cities, counties, and other public agencies regarding public safety communications issues.

(b) Provide, upon request, adequate advice to state and local agencies in the state concerning existing or proposed public safety communications facilities between any and all of the following: cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

(c) Recommend to the appropriate state and local agencies rules, regulations, procedures, and methods of operation that it deems necessary

to effectuate the most efficient and economical use of publicly owned and operated public safety communications facilities within this state.

(d) Provide, upon request, information and data concerning the public safety communications facilities that are owned and operated by public agencies in connection with official business of public safety services.

(e) Carry out the policy of this part.

SEC. 11. Section 15276 of the Government Code is repealed.

SEC. 12. Section 15277 of the Government Code is amended to read:

15277. There is hereby established within the department a Division of Telecommunications. The division shall include a policy and planning unit whose duties shall include, but not be limited to, all of the following:

(a) Assessing the overall long-range public safety communications needs and requirements of the state considering emergency operations, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(b) Developing strategic and tactical policies and plans for public safety communications with consideration for the systems and requirements of the state and all public agencies in this state, and preparing an annual strategic communications plan that includes the feasibility of interfaces with federal and other state telecommunications networks and services.

(c) Recommending industry standards for public safety communications systems to assure multiuser availability and compatibility.

(d) Providing advice and assistance in the selection of communications equipment to ensure that the public safety communications needs of state agencies are met and that procurements are compatible throughout state agencies and are consistent with the state's strategic and tactical plans for public safety communications.

(e) Providing management oversight of statewide public safety communications systems developments.

(f) Providing for coordination of, and comment on, plans, policies, and operational requirements from departments that utilize public safety communications in support of their principal function, such as the Office of Emergency Services, National Guard, health and safety agencies, and others with primary public safety communications programs.

(g) Monitoring and participating on behalf of the state in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state government public safety communications activities.

(h) Developing plans regarding teleconferencing as an alternative to state travel during emergency situations.

SEC. 13. Section 15279 of the Government Code is repealed.

SEC. 14. Section 19857 of the Government Code is amended to read:

19857. (a) The appointing power of any officer or employee not a member of the civil service may promulgate regulations governing vacations for these officers or employees. In the absence of these

regulations, the rules of the department relating to the regulation and methods of accumulation of vacation for civil service employees shall govern.

(b) Notwithstanding subdivision (a), no paid leave including, but not limited to, vacation, annual leave, and sick leave shall be accrued by state officers in the following positions:

- (1) Executive Director of the California Housing Finance Agency.
- (2) Director of the Office of Administrative Law.
- (3) Director of Emergency Medical Services Authority.
- (4) Executive Director of the Office of Criminal Justice Planning.
- (5) Director of the California Conservation Corps.
- (6) Director of the Arts Council.

The department may adopt regulations for the application of this provision to similar positions established in the future.

SEC. 15. Section 4.5 of this bill incorporates amendments to Section 12804 of the Government Code proposed by both this bill and AB 1278. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 12804 of the Government Code, and (3) this bill is enacted after AB 1278, in which case Section 4 of this bill shall not become operative.