

SECOND REGULAR SESSION

HOUSE BILL NO. 1930

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BURTON.

Read 1st time February 13, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4581L.011

AN ACT

To amend chapter 407, RSMo, by adding thereto six new sections relating to the establishment of the electronic government services act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 407.1135, 407.1137, 407.1139, 407.1141, 407.1143 and 407.1145, to read as
3 follows:

**407.1135. The provisions of sections 407.1135 to 407.1145 shall be known and may
2 be cited as the "Electronic Government Services Act".**

407.1137. As used in sections 407.1135 to 407.1145, the following terms shall mean:

2 (1) "Electronic commerce services", services that are the same, similar to, or
3 overlapping those information technology-based services provided by the private sector to
4 the general public for example, any transaction completed over a computer network such
5 as the buying of goods and services on the Internet;

6 (2) "Commercial activity", performing services or providing goods which can
7 normally be obtained from private enterprise;

8 (3) "Direct costs", all costs, whether capital costs, operating costs or otherwise, that
9 would be eliminated if the service or function to which they relate were discontinued;

10 (4) "Full cost accounting", in accordance with applicable generally accepted
11 accounting principles, accounting for all direct and indirect costs, including capital costs,
12 that are incurred in the ownership, management, or operation of an electronic service;

13 (5) "Government agency", the state, and any unit of state government;

14 (6) "Indirect costs accounting", all costs, whether capital costs, operating costs or
15 otherwise, that are not direct costs. Indirect costs that support multiple services or

16 functions shall be allocated among those services and functions in proportion to the relative
17 burden each service or function places on the cost category and by any reasonable method
18 consistent with applicable generally accepted accounting principles;

19 (7) "Private enterprise", an individual, firm, partnership, joint venture,
20 corporation, association, or any other legal entity engaging in the manufacturing,
21 processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or
22 advertising of goods or services for profit;

23 (8) "Private sector", two or more competing privately-owned companies.

407.1139. If the private sector provides electronic commerce services to the public,
2 no government agency shall start or carry on any activity to provide or offer such services,
3 expand similar services at government expense or provision. Nothing in section 407.1135
4 to 407.1145 shall prohibit a government agency from providing electronic commerce
5 services to the public in the absence of the private sector provision of such services.

407.1141. A government agency can provide duplicative or competing electronic
2 commerce services provided that the head of the agency that proposes to provide
3 duplicative or competing electronic commerce services to the general public shall provide
4 public notice and the opportunity of the public to comment on the agency's proposed
5 services. Such notice shall include:

6 (1) The agency's proposed findings of fact and conclusions of law describing the
7 reasons why it believes it is necessary and in the public interest to provide duplicative or
8 competing electronic commerce services. The agency must specify:

9 (a) The initial and total lifecycle costs of the proposed government services, which
10 include, but are not limited to, all technology, infrastructure, services, contracts, and direct
11 and indirect personnel costs;

12 (b) The individual per taxpayer cost of such services on an annualized basis, and
13 the cost of such services per user on an annualized basis;

14 (c) A description of the agency's reasons for believing that the cost benefits of
15 providing such services require the expenditure of public funds;

16 (d) Identification of unmet needs in the consumer marketplace which the
17 government service offer would fulfill;

18 (e) A description of how the proposed government service offers would differ from
19 those provided by the private sector; and

20 (f) An economic impact analysis demonstrating that the offering of proposed
21 electronic commerce services by government will not be anti-competitive in its effect on the
22 existing industry, and will not adversely impact or distort the private sector marketplace
23 for the same or similar electronic commerce services;

24 (2) Subsequent to receiving the comments of the public, if the head of the agency
25 wishes to proceed with duplicative or competing services, the head of the agency must sign
26 factual and legal conclusions enumerating all of the factors described in subdivision (1) of
27 this section;

28 (3) Any provider of electronic commerce services who resides within or does
29 business in the state has standing to judicially challenge the factual and legal sufficiency
30 of the findings in subdivision (2) of this section pursuant to the state's procedures for
31 hearing and resolving complaints filed pursuant to sections 407.1135 to 407.1145;

32 (4) Any provider of electronic commerce services who resides within or does
33 business in the state has standing to judicially challenge the provision of electronic
34 commerce services by the government agency not made in conformance with sections
35 407.1135 to 407.1145 pursuant to the state's procedures for hearing and resolving
36 complaints filed under sections 407.1135 to 407.1145.

 407.1143. Nothing contained in sections 407.1135 to 407.1145 may be construed to
2 prohibit a government agency from offering electronic government services to the general
3 public services prior to the enactment of sections 407.1135 to 407.1145.

 407.1145. If a government agency elects to provide electronic services in a
2 jurisdiction where a private enterprise delivers the same electronic service, the agency shall
3 prepare and publish, on or before December thirty-first of each year, an annual report on
4 its electronic services. The report shall be substantially in accordance with full cost
5 accounting and shall include disclosure of the amount, source, and cost of working capital
6 utilized for its electronic services.