

ENGROSSED SENATE  
BILL NO. 669

By: Robinson of the Senate

and

Anthony of the House

[ telecommunications and public records - State Data  
Processing and Telecommunications Advisory  
Committee - codification -  
repealer ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 41.5n-1 of Title 62, unless  
there is created a duplication in numbering, reads as follows:

The State Data Processing and Telecommunications Advisory  
Committee, referred to in Section 43 of Article X of the Oklahoma  
Constitution and in Section 57.303 of Title 62 of the Oklahoma  
Statutes, is hereby renamed and shall be known as the  
Telecommunications Oversight Committee.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 41.5e, is  
amended to read as follows:

Section 41.5e ~~Not later than September 1, 1984, and not less  
than annually thereafter all~~ All agencies of the ~~state~~ executive  
branch presently using or contemplating the use of ~~electronic data  
processing~~ computer applications or telecommunications equipment,  
including but not limited to, the use of mainframe computers,  
minicomputers, or ~~microcomputers, word processing equipment, or~~  
~~office automation systems~~ geographic information systems, or local

area or wide area network hardware or software, shall submit to the Information Services Division, annually, a long-range plan, summarizing the agency's detailed plan, for not less than the ensuing three (3) fiscal years, which shall include as a minimum:

1. An overview of major projects and objectives;
2. Estimated resource requirements including personnel, hardware, ~~and software~~, and the purchase of on-line services;
3. Key project dates;
4. Project priorities;
5. Estimated project costs and benefits;
6. Revisions to previous plans;
7. Specific segments which will be included in the agency budget request for the next ensuing fiscal year; and
8. Such other information as the Information Services Division may require for analysis and consolidation into a statewide plan for ~~electronic data processing~~ computerization and telecommunications.

~~After June 30, 1985, no~~ No agency of the state shall enter into any agreement for the acquisition, development, or enhancement of application systems software, or for the acquisition of electronic data processing network equipment or software, or for peripheral devices whether or not connected to such equipment, unless the cost of such acquisition, development, or enhancement has been included in said agency's plan.

The Information Services Division ~~upon review of an agency's data processing and telecommunication plan~~ shall review and analyze the agencies' plans and write a comprehensive report which the Director of State Finance shall submit in writing to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the ~~Chairman~~ Chair of the ~~Joint Legislative Committee on Data Processing and Telecommunication~~ its Telecommunications Oversight Committee. The report shall include findings and recommendations on all proposed new and expanded

~~programs and expenditures for personnel and the purchase or acquisition of equipment, hardware and software or accessories thereto, including but not limited to leases, rentals or lease-purchase, indicating that the associated cost meet or comply with Section 41.5a of this title.~~

SECTION 3. AMENDATORY Section 1, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5m), is amended to read as follows:

Section 41.5m A. There is hereby created a wide area telecommunications network to be known and referred to as the "Oklahoma Government Telecommunications Network (OGTN)". The OGTN shall consist of the telecommunications systems and networks of educational entities and agencies of state government.

B. Notwithstanding the provisions of subsection A of this section:

1. The Oklahoma State Regents for Higher Education may continue to operate, maintain and enhance the State Regents Educational Telecommunications Network; provided, however, the Oklahoma State Regents for Higher Education shall submit all plans for the enhancement of the State Regents Educational Telecommunications Network to the Office of State Finance for review and approval within the context of the statewide telecommunications network provided for in subsection C of this section and shall participate with the Office of State Finance in joint efforts to provide services for the OGTN; and

2. The Department of Public Safety may continue to operate, maintain and enhance the statewide law enforcement data communications network provided for in Section 2-124 of Title 47 of the Oklahoma Statutes; provided, however, the Department of Public Safety shall submit all plans for the enhancement of the statewide law enforcement data communications network to the Office of State Finance for review and approval and shall participate with the

Office of State Finance in joint efforts to provide services for the OGTN.

C. The Office of State Finance shall be responsible for developing, operating and maintaining the OGTN. The purposes of the OGTN shall include the following:

1. Development of a comprehensive, unified statewide telecommunications network to effectively and efficiently meet the communication needs of educational entities and agencies of state government;

2. Effective and efficient utilization of existing telecommunications systems operated by educational entities and agencies of state government; and

3. Elimination and prevention of unnecessarily duplicative telecommunications systems operated by educational entities and agencies of state government.

D. In developing, operating and maintaining the OGTN, the Office of State Finance shall:

1. Develop a statewide master plan for meeting the communications needs of educational entities and of agencies of state government. ~~To facilitate the development of a statewide master plan as provided for in this paragraph:~~

~~a. the Oklahoma State Regents for Higher Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of each member of The Oklahoma State System of Higher Education. For purposes of developing such report, each member shall cooperate with and submit to the State Regents a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records,~~

~~and the use of telecommunications equipment or services,~~

- ~~b. the State Superintendent of Public Instruction shall submit a report annually to the Director of State Finance identifying the telecommunications plans of the public common school system of the state. For purposes of developing such report, the respective public elementary and secondary schools shall cooperate with and submit to the State Superintendent a plan of their telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,~~
- ~~e. the State Director of Vocational and Technical Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of area vocational-technical school districts. For purposes of developing such report, each area vocational-technical school district as defined in Section 14-108 of Title 70 of the Oklahoma Statutes shall cooperate with and submit to the State Director of Vocational and Technical Education a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,~~
- ~~d. the chief administrative officer of each state agency of the executive branch shall submit a plan annually to the Director of State Finance identifying the~~

~~telecommunications needs of the state agency, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services, and~~

- ~~e. the Director of the Oklahoma Department of Libraries shall submit a report annually to the Director of State Finance identifying the telecommunications plans of public libraries and public library systems. For purposes of developing such report, the chief administrative officer of any public library or public library system not otherwise required to submit a plan of its telecommunications needs pursuant to the provisions of this paragraph shall cooperate with and submit annually to the Director of the Oklahoma Department of Libraries a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records and the use of telecommunications equipment or services. To assure inclusion in the report of the plans of the telecommunications needs of any library that is a part of any member of The Oklahoma State System of Higher Education, a public elementary or secondary school, or area vocational-technical school district, all such plans relating to libraries received by the Oklahoma State Regents for Higher Education, the State Superintendent of Higher Education, and the State Director of Vocational and Technical Education shall be submitted to the Director of the Oklahoma~~

~~Department of Libraries by the respective recipients thereof as soon as practicable after receipt. The Director of the Oklahoma Department of Libraries shall certify to the Office of State Finance that such plans are consistent with the plan developed by the Oklahoma Library Technology Network or explain any inconsistencies therewith;~~

2. Identify the most cost-effective means of meeting the telecommunications needs of educational entities and of agencies of state government;

3. Develop minimum mandatory standards and protocols for equipment, facilities and services of the OGTN;

4. Evaluate the advantages and disadvantages of utilizing equipment, facilities, and services of both private entities and those owned and operated by the state;

5. Recommend a fee structure to provide for the operation and maintenance of the OGTN; and

6. Seek the advice of the ~~State Data Processing and Telecommunications Advisory Committee created by Section 2 of this act and the Industry Advisory Committee created pursuant to Section 41.5b of Title 62 of the Oklahoma Statutes~~ Telecommunications Oversight Committee.

E. All state agencies, institutions and constituent agencies of The Oklahoma State System of Higher Education and public school districts shall submit to the Office of State Finance all information requested by that office toward meeting its responsibilities pursuant to subsection D of this section.

SECTION 4. AMENDATORY Section 2, Chapter 268, O.S.L. 1992, as last amended by Section 1, Chapter 21, O.S.L. 1994 (62 O.S. Supp. 1994, Section 41.5n), is amended to read as follows:

Section 41.5n A. There is hereby created, to continue until July 1, 1998, in accordance with the provisions of the Oklahoma

Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a ~~State Data Processing and Telecommunications Advisory Oversight~~ Committee. The Committee shall assist the Office of State Finance in addressing the state's ~~data processing~~ computerization and telecommunications needs. The Committee shall consist of twenty-six (26) members, nine of whom shall be voting members and seventeen of whom shall be ex officio nonvoting members. Voting members shall include three members of the House of Representatives appointed by the Speaker of the House of Representatives, three members of the State Senate appointed by the President Pro Tempore of the Senate, two members appointed by the Governor, and the Director of the Office of State Finance or the Director's designee. Ex officio nonvoting members shall include the chief administrative officer of each of the following state agencies or ~~his or her~~ designee:

1. State Department of Education;
2. Oklahoma State Regents for Higher Education;
3. Department of Public Safety;
4. Department of Human Services;
5. Department of Commerce;
6. Department of Libraries;
7. Oklahoma Educational Television Authority;
8. Oklahoma Corporation Commission;
9. State Department of Vocational and Technical Education;
10. Department of Corrections;
11. Oklahoma Tourism and Recreation Department;
12. State Department of Health;
13. Oklahoma Tax Commission;
14. Office of Personnel Management;
15. State Election Board; and
16. Department of Mental Health and Substance Abuse Services.

The remaining ex officio nonvoting position shall be rotated among other state agencies at the discretion of the Governor. The ~~chairmanship~~ chair of the Committee shall alternate every two (2) years among the House of Representatives, the Senate and the Director of the Office of State Finance at the beginning of each odd-numbered year. Meetings of the Committee shall be called by the ~~Chairman~~ chair not less than two times each year and shall be ~~open to data processing and telecommunications managers from all state agencies~~ conducted pursuant to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes; provided, subcommittees whose powers are limited to bringing recommendations to the full Committee shall not be required to comply with the Oklahoma Open Meeting Act. A majority of the voting members of the Committee shall constitute a quorum.

B. Members of the ~~State Data Processing and Telecommunications Advisory Oversight~~ Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. Legislative members of the Committee shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the Committee shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

C. The duties of the ~~State Data Processing and Telecommunications Advisory Oversight~~ Committee shall include:

1. Advising the Office of State Finance in the development of a statewide master plan for telecommunications and in the development of the Oklahoma Government Telecommunications Network created in

Section 41.5m of this title as an efficient, secure, and reliable means whereby public schools, public institutions of higher education, state agencies and county and municipal agencies, other public agencies, public trusts, and other instrumentalities of the state can exchange voice, data, and video communication;

2. Providing a forum for discussion of major issues facing state agencies in the areas of ~~data processing~~ computerization and telecommunications;

3. ~~Meeting jointly with the Industry Advisory Committee created pursuant to Section 41.5b of this title at least annually to ensure that the state's planned activities are consistent with the direction of industry data processing and telecommunications;~~

4. ~~Advising the Information Services Division of the Office of State Finance on the development and implementation of statewide data processing policies~~ Reviewing agency budget requests for new and expanded programs in the areas of computerization and telecommunications and making such recommendations as it deems necessary to the appropriations committees of the Legislature; and

~~5.~~ 4. Making recommendations to the Office of State Finance for expenditures for telecommunications as provided in Section 57.303 of this title and Section 43 of Article X of the Oklahoma Constitution; provided, however, no such recommendations shall become final and no such expenditures shall be made unless approved by the Contingency Review Board;

5. Reviewing draft rules proposed for promulgation by the Office of State Finance setting charges agencies shall assess for provision of public records in formats other than paper; and

6. Ensuring that plans for telecommunications development, whether by enhancement of the OGTN, by means of other networks or by individual agencies or groups of agencies, give highest priority to the protection of confidentiality where required by law and reflect due consideration of the rights of individuals to privacy.

SECTION 5. AMENDATORY 51 O.S. 1991, Section 24A.1, is amended to read as follows:

Section 24A.1 Sections 24A.1 through ~~24A.19~~ 24A.22 of this title and ~~Section 7~~ Sections 9 and 10 of this act shall be known as the "Oklahoma Open Records Act".

SECTION 6. AMENDATORY 51 O.S. 1991, Section 24A.3, as amended by Section 1, Chapter 39, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.3), is amended to read as follows:

Section 24A.3 Definitions. As used in ~~this act~~ the Oklahoma Open Records Act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean computer software, nongovernment personal effects or, unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Turnpike Authority obtained in connection with the Authority's electronic toll collection system, personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body. "Record" shall include data files created by or used with computer software;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, county, city, village, town, township, district, school district, fair board, court, executive

office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean ~~judges, justices, the State Legislature, or State Legislators;~~

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein. Except for the records required by Section 24A.4 of this title, "public official" does not mean judges, justices or state legislators; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, and the Oklahoma State Bureau of Investigation.

SECTION 7. AMENDATORY 51 O.S. 1991, Section 24A.5, as last amended by Section 7, Chapter 97, O.S.L. 1993 (51 O.S. Supp. 1994, Section 24A.5), is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act does not apply to records specifically required by law to be kept confidential including:
  - a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges; or

- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, ~~provided however, the~~. The Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, and/or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents (\$0.25) per page for documents having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. For the purposes of this section, only such charges as are prescribed pursuant to Section 9 of this act shall be assessed by a public body for the provision of public information in a format other than paper. However, if the request is:

- a. solely for commercial purpose; or
- b. clearly would cause excessive disruption of the public body's essential functions;

then the public body may charge a reasonable fee to recover the direct cost of document search. No public body shall be required to expend public resources to create, segregate, analyze, or format records solely for commercial purposes.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

Said fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied and/or mechanically reproduced for the purpose of sale of such information.

5. In response to open record requests for records in formats other than paper, a public body shall be required to furnish access to the records or copies of the records in any format used by the public body in the normal performance of its duties. A public body shall not be required to furnish access to records or copies of records in any format not used by the public body in the normal performance of its duties. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its

records and to prevent excessive disruptions of its essential functions.

6. Any public body which maintains a computer database that commingles public records with records specifically required by law to be kept confidential shall maintain a computer program that allows for the segregation of public information from the database. Fulfillment of a request to copy or mechanically reproduce the public record portion of a database in machine-readable form, while segregating those records in the database specifically required by law to be kept confidential, shall not be considered the creation of a new record.

7. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one such person shall be available at all times to release records during the regular business hours of the public body.

SECTION 8. AMENDATORY 51 O.S. 1991, Section 24A.9, is amended to read as follows:

Section 24A.9 ~~Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal~~ Personal notes and personally created materials ~~other than departmental budget requests of a public body prepared as an aid to memory,~~ or personal research ~~leading to the which precedes action or adoption of a public policy or the implementation of a public project by a public official,~~ may be kept confidential. However, unless otherwise exempted by law, personal notes, personally created materials, or personal research, regardless of purpose, which are disseminated outside the public body or provided to members of the governing board of the public body shall be available to the public at the same time the notes, materials, or research are disseminated or provided. Agency memoranda, research, notes, or other materials that describe or set

forth action by an agency or a public official or adoption of agency policy shall be open.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24A.23 of Title 51, unless there is created a duplication in numbering, reads as follows:

The Office of State Finance, by rules promulgated pursuant to Article I of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall establish amounts to be charged for electronic access to public records, including, but not limited to, charges for computer discs, tapes, audio cassettes, and other electronic or machine-readable information storage devices when an agency of state government furnishes information on such storage media. The charges shall be based on recovery of direct costs for central processing unit time, programming, segregation of confidential information, and such other direct costs as are required for reproduction of public records in formats other than paper. The cost for central processing time shall be the cost for the actual time required to electronically transfer public records from computer storage to the nonpaper format. The cost for programming shall be limited to the actual and direct programming cost for retrieving and electronically transferring the records. If a state agency already possesses programs that are capable of retrieving public records, no cost for programming shall be included in the determination of the charge. Once an agency creates or obtains a program for the retrieval and transfer of public records from computer storage, it shall not charge for the costs of segregating records again. Actual and direct costs of retrieval and segregation of public records shall not include the cost of computer hardware or software or utility or other support costs of retrieval and segregation of public records. Only such charges as are established by the Office of State Finance as provided in this

section shall be assessed by a state agency for electronic access to public records.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24A.24 of Title 51, unless there is created a duplication in numbering, reads as follows:

A. State public bodies that are otherwise authorized by law to sell public records may contract for the provision and sale of the records in formats other than paper. The contracts shall contain, as a minimum, terms governing the determination of charges, manner of payment, and means of delivery of the public information, and shall specify the statutory authority of the public body permitting the sale of the information. Proposed contracts of executive branch entities shall be reviewed by the Attorney General. All contracts must satisfy the minimum parameters for the contracts prescribed by this section and must be in pursuance of lawful duties of the public body. Contracts not in compliance with the provisions of this section shall be null and void and of no effect.

B. Bulk sale of individual information in any format for private or commercial use shall not be permitted. Individual information means any information which permits the discovery of the location or appearance of, or allows the demographic categorization of specific persons.

SECTION 11. REPEALER Section 1, Chapter 152, O.S.L. 1993 (17 O.S. Supp. 1994, Section 140), is hereby repealed.

SECTION 12. REPEALER 62 O.S. 1991, Section 41.5k, as amended by Section 8, Chapter 268, O.S.L. 1992 (62 O.S. Supp. 1994, Section 41.5k), is hereby repealed.

Passed the Senate the 15th day of March, 1995.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of  
\_\_\_\_\_, 1995.

Speaker of the House of  
Representatives