

HOUSE BILL No. 4743

May 27, 1999, Introduced by Reps. Woodward, Thomas, Lockwood, O'Neil, Schauer, Dennis, Bob Brown, Quarles, Daniels, DeHart, Gielegem, Martinez, Jacobs, Scott and Lemmons and referred to the Committee on House Oversight and Operations.

A bill to impose reporting duties on state vendors and state subcontractors; to prescribe the duties of certain state officials; to prescribe penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "state vendor and subcontractor year 2000 reporting act".

3 Sec. 2. As used in this act:

4 (a) "Computer" means a high-speed data processing device
5 that performs logical, arithmetic, or memory functions by the
6 manipulations of electronic or magnetic impulses and includes all
7 input, output, processing, storage, or communication facilities
8 that are connected or related to the device.

9 (b) "Computer date failure" means a malfunction, including,
10 but not limited to, the malfunction of an electronic or

1 mechanical device or the inability of a computer, a computer
2 network, a computer program, computer software, an embedded chip,
3 or a computer system to accurately store, process, receive, or
4 transmit data, that is caused directly or indirectly by the fail-
5 ure of a computer, a computer network, a computer program, com-
6 puter software, an embedded chip, or a computer system to accu-
7 rately or properly recognize, calculate, display, sort, or other-
8 wise process dates or times in the years 1999 and 2000 and
9 beyond.

10 (c) "Computer network" means an interconnection of 2 or more
11 computers or computer systems by satellite, microwave, line,
12 cable, wiring, or other communication medium with the capability
13 to transmit information among the computers or computer systems.

14 (d) "Computer program" means an ordered set of data-coded
15 instructions or statements that when executed by a computer cause
16 the computer system to process data or perform specific
17 functions.

18 (e) "Computer software" means a set of computer programs,
19 procedures, and associated documentation related to the operation
20 of a computer, computer system, or computer network.

21 (f) "Computer system" means a combination of a computer or a
22 computer network with the documentation, computer software, or
23 physical facilities supporting the computer or computer network.

24 (g) "Embedded chip" means a single or multiple microproces-
25 sor chip that operates in conjunction with software, including
26 software on the chip itself, and that in some way controls a

1 device or equipment, including, but not limited to, a computer or
2 other electronic or mechanical device.

3 (h) "Employee" means a person performing work or service for
4 hourly or salary compensation but does not include a consultant
5 or other independent contractor.

6 (i) "State" means the state of Michigan and its agencies,
7 departments, commissions, courts, boards, councils, and statuto-
8 rily created task forces and includes every public university and
9 college of the state whether established as a constitutional cor-
10 poration or otherwise.

11 (j) "State subcontractor" means an individual, partnership,
12 corporation, association, other legal entity, or combination of
13 legal entities that has entered into a contractual relationship
14 with a state vendor to provide goods, services, or both to the
15 state vendor. State subcontractor does not include an employee
16 of the state vendor acting solely within the scope of his or her
17 employment.

18 (k) "State vendor" means an individual, partnership, corpo-
19 ration, association, other legal entity, or combination of legal
20 entities that has entered into a contractual relationship with
21 the state to provide goods, services, or both to the state.
22 State vendor does not include an employee of the state acting
23 solely within the scope of his or her employment.

24 Sec. 3. A state vendor under contract to the state at any
25 time during the period from the effective date of this act to
26 October 31, 1999 shall no later than October 31, 1999 provide all

1 of the following information in writing to the department of
2 management and budget:

3 (a) Expressed as a percentage, and including action taken on
4 behalf of a state vendor by a third party:

5 (i) The state vendor's estimated progress toward completing
6 an inventory of its computers, computer networks, computer pro-
7 grams, computer software, embedded chips, and computer systems.

8 (ii) The state vendor's estimated progress toward completing
9 an investigation and assessment of its computers, computer net-
10 works, computer programs, computer software, embedded chips, and
11 computer systems to determine what actual or expected computing,
12 physical, enterprise, or systems complications have occurred or
13 may occur as a result of computer data failure.

14 (iii) The state vendor's estimated progress toward imple-
15 menting measures to prevent computer data failure.

16 (iv) The state vendor's estimated progress toward testing
17 measures it has implemented to prevent computer data failure.

18 (b) The state vendor's contingency plan, if any, if the
19 state vendor experiences a computer data failure.

20 (c) A description of each activity engaged in by the state
21 vendor in which it electronically transmits or receives data to
22 or from the state or in which a computer, computer network, or
23 computer system of the state vendor is otherwise linked electron-
24 ically with a computer, computer network, or computer system of
25 the state.

26 (d) If the state vendor has sold, leased, or otherwise
27 transferred a computer, computer network, computer program,

1 computer software, embedded chip, or computer system to the state
2 under the contract, an assessment of what computing, physical,
3 enterprise, or systems complications it expects the state will or
4 may experience as a result of computer data failure of the com-
5 puter, computer network, computer program, computer software,
6 embedded chip, or computer system.

7 (e) The name, title, address, and telephone number of the
8 employee of the state vendor primarily responsible for compiling
9 the information provided under this section and the employee pri-
10 marily responsible for addressing complications resulting from a
11 computer data failure.

12 Sec. 4. A state subcontractor providing goods, services, or
13 both to a state vendor described in section 3 shall no later than
14 October 31, 1999 provide all of the following information in
15 writing to the department of management and budget:

16 (a) Expressed as a percentage, and including action taken on
17 behalf of a state subcontractor by a third party:

18 (i) The state subcontractor's estimated progress toward com-
19 pleting an inventory of its computers, computer networks, com-
20 puter programs, computer software, embedded chips, and computer
21 systems.

22 (ii) The state subcontractor's estimated progress toward
23 completing an investigation and assessment of its computers, com-
24 puter networks, computer programs, computer software, embedded
25 chips, and computer systems to determine what actual or expected
26 computing, physical, enterprise, or systems complications have
27 occurred or may occur as a result of computer data failure.

1 (iii) The state subcontractor's estimated progress toward
2 implementing measures to prevent computer date failure.

3 (iv) The state subcontractor's estimated progress toward
4 testing measures it has implemented to prevent computer date
5 failure.

6 (b) The state subcontractor's contingency plan, if any, if
7 the state subcontractor experiences a computer date failure.

8 (c) A description of each activity engaged in by the state
9 subcontractor in which it electronically transmits or receives
10 data to or from the state or in which a computer, computer net-
11 work, or computer system of the state subcontractor is otherwise
12 linked electronically with a computer, computer network, or com-
13 puter system of the state.

14 (d) If the state subcontractor has sold, leased, or other-
15 wise transferred a computer, computer network, computer program,
16 computer software, embedded chip, or computer system to the state
17 or the state vendor under the contract, an assessment of what
18 computing, physical, enterprise, or systems complications it
19 expects the state will or may experience as a result of computer
20 date failure of the computer, computer network, computer program,
21 computer software, embedded chip, or computer system.

22 (e) The name, title, address, and telephone number of the
23 employee of the state subcontractor primarily responsible for
24 compiling the information provided under this section and the
25 employee primarily responsible for addressing complications
26 resulting from a computer date failure.

1 Sec. 5. (1) A person who violates this act is responsible
2 for the payment of a civil fine of not more than \$10,000.00.

3 (2) If the violation of this act described in subsection (1)
4 is a failure to provide information under section 3, in addition
5 to the fine prescribed by subsection (1), the person is also
6 responsible for the payment of a civil fine of \$1,000.00 for each
7 day the person fails to provide the information.

8 (3) A default in the payment of a civil fine or costs
9 ordered under this section, or an installment of the fine or
10 costs, may be remedied by any means authorized under the revised
11 judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

12 Enacting section 1. This act is repealed effective January
13 1, 2005.