

SENATE BILL 294

S1, P1

(PRE-FILED)

4lr0383
CF HB 227

By: **Chair, Education, Energy, and the Environment Committee (By Request – Departmental – Information Technology)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Information Technology – Major Information Technology**
3 **Development Projects**

4 FOR the purpose of altering the definitions of “information technology” and “major
5 information technology development project” for the purpose of certain provisions of
6 law governing information processing and security; requiring a unit of State
7 government to submit certain information to the Secretary of Information
8 Technology relating to a major information technology development project; altering
9 certain responsibilities of the Secretary relating to major information technology
10 development projects; altering criteria for certain expenditures from the Major
11 Information Technology Development Project Fund; altering certain requirements
12 for the approval of a systems development life cycle plan; and generally relating to
13 major information technology development projects.

14 BY repealing and reenacting, with amendments,
15 Article – State Finance and Procurement
16 Section 3.5–301 and 3.5–307 through 3.5–309
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2023 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – State Finance and Procurement**

22 3.5–301.

23 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) "Cybersecurity" means processes or capabilities wherein systems,
2 communications, and information are protected and defended against damage,
3 unauthorized use or modification, and exploitation.

4 (c) "Cybersecurity strategy" means a vision, a plan of action, or guiding
5 principles.

6 (d) (1) "Development" means all expenditures for a new information
7 technology system or an enhancement to an existing system including system:

8 (i) planning;

9 (ii) creation;

10 (iii) installation;

11 (iv) testing; and

12 (v) initial training.

13 (2) "Development" does not include:

14 (i) ongoing operating costs, software or hardware maintenance,
15 routine upgrades, or modifications that merely allow for a continuation of the existing level
16 of functionality; or

17 (ii) expenditures made after a new or enhanced system has been
18 legally accepted by the user and is being used for the business process for which it was
19 intended.

20 (e) "Fund" means the Major Information Technology Development Project Fund.

21 (f) "Information technology" means all electronic information processing,
22 including:

23 (1) maintenance;

24 **(2) NETWORKING;**

25 **[(2)] (3)** telecommunications;

26 **[(3)] (4)** hardware;

27 **[(4)] (5)** software **AND APPLICATIONS;** and

28 **[(5)] (6)** associated services.

1 (g) “Information technology services” means information provided by electronic
2 means by or on behalf of a unit of State government.

3 (h) “Major information technology development project” means any information
4 technology development project that meets one or more of the following criteria:

5 (1) **UNLESS THE SECRETARY DETERMINES THAT THE PROJECT DOES**
6 **NOT REQUIRE THE OVERSIGHT GIVEN TO A MAJOR INFORMATION TECHNOLOGY**
7 **DEVELOPMENT PROJECT:**

8 (I) the estimated total cost of development equals or exceeds
9 **[\$1,000,000] \$5,000,000; AND**

10 (II) **THE SECRETARY DETERMINES THAT:**

11 1. **THE UNIT OF STATE GOVERNMENT HAS SUFFICIENT**
12 **IMPLEMENTATION RESOURCES, TO INCLUDE HUMAN CAPITAL, SUBJECT MATTER**
13 **EXPERTISE, AND TECHNOLOGICAL INFRASTRUCTURE, OR HAS THE MEANS TO**
14 **OBTAIN THESE RESOURCES PRIOR TO PROJECT INITIATION;**

15 2. **THERE IS NO SUFFICIENT ALTERNATIVE WITHIN THE**
16 **STATE’S INFORMATION TECHNOLOGY INVENTORY; AND**

17 3. **THE PROJECT WILL RESULT IN A SINGLE,**
18 **COMPREHENSIVE SOLUTION DESIGNED TO MEET A COHESIVE SET OF BUSINESS AND**
19 **TECHNOLOGICAL OBJECTIVES;**

20 (2) **THE SECRETARY DETERMINES THAT** the project is undertaken to
21 support a critical business function associated with the public health, education, safety, or
22 financial well-being of the citizens of Maryland; or

23 (3) the Secretary determines that the project requires the special attention
24 and consideration given to a major information technology development project due to:

25 (i) the significance of the project’s potential benefits or risks;

26 (ii) the impact of the project on the public or local governments;

27 (iii) the public visibility of the project; or

28 (iv) other reasons as determined by the Secretary.

29 (i) “Master plan” means the statewide information technology master plan and
30 statewide cybersecurity strategy.

1 (j) “Nonvisual access” means the ability, through keyboard control, synthesized
2 speech, Braille, or other methods not requiring sight to receive, use, and manipulate
3 information and operate controls necessary to access information technology in accordance
4 with standards adopted under § 3.5–303(b) of this subtitle.

5 (K) (1) **“OVERSIGHT” MEANS THE OBLIGATION TO MONITOR, ASSESS,**
6 **AND REPORT ON THE IMPLEMENTATION AND FINANCIAL STATUS OF MAJOR**
7 **INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS.**

8 (2) **“OVERSIGHT” DOES NOT INCLUDE PROJECT OR PROGRAM**
9 **MANAGEMENT SUPPORT OR RESPONSIBILITY OVER PROJECT ACTIVITIES.**

10 [(k)] (L) “Resource sharing” means the utilization of a State resource by private
11 industry in exchange for the provision to the State of a communication service or other
12 consideration.

13 [(l)] (M) “Systems development life cycle plan” means a plan that defines all
14 actions, functions, or activities to be performed by a unit of State government in the
15 definition, planning, acquisition, development, testing, implementation, operation,
16 enhancement, and modification of information technology systems.

17 3.5–307.

18 (a) (1) A unit of State government may not purchase, lease, or rent information
19 technology unless consistent with the master plan, **AS DETERMINED BY THE**
20 **SECRETARY.**

21 (2) A unit of State government other than a public institution of higher
22 education may not make expenditures for major information technology development
23 projects or cybersecurity projects except as provided in § 3.5–308 of this subtitle.

24 (b) The Secretary may review any information technology project or cybersecurity
25 project for consistency with the master plan.

26 (c) (1) A unit of State government shall advise the Secretary of any
27 information technology proposal involving:

28 (i) resource sharing;

29 (ii) the exchange of goods or services;

30 (iii) a gift, contribution, or grant of real or personal property; or

31 (iv) the sale, lease, exchange, or other disposition of communications
32 facilities or communications frequencies.

1 (2) The Secretary shall determine if the value of the resources, services,
2 property, or other consideration to be obtained by the State under the terms of any proposal
3 submitted in accordance with paragraph (1) of this subsection equals or exceeds \$100,000.

4 (3) If the value of any proposal submitted in accordance with this
5 subsection equals or exceeds \$100,000 and the Secretary and unit agree to proceed with the
6 proposal, information on the proposal shall be:

7 (i) advertised for a period of at least 30 days in the eMaryland
8 Marketplace; and

9 (ii) submitted, simultaneously with the advertisement, to the
10 Legislative Policy Committee for a 60-day review and comment period, during which time
11 the Committee may recommend that the proposal be treated as a procurement contract
12 under Division II of this article.

13 (4) Following the period for review and comment by the Legislative Policy
14 Committee under paragraph (3) of this subsection, the proposal is subject to approval by
15 the Board of Public Works.

16 (5) This subsection may not be construed as authorizing an exception from
17 the requirements of Division II of this article for any contract that otherwise would be
18 subject to the State procurement process.

19 3.5-308.

20 (a) This section does not apply to a public institution of higher education.

21 (b) **[In] BEFORE** submitting its information technology project requests, a unit
22 of State government shall **[designate projects which are major information technology**
23 **development projects]** **SUBMIT INFORMATION IN SUPPORT OF THE REQUEST**
24 **REQUIRED BY THE SECRETARY FOR REVIEW AND DETERMINATION CONSISTENT**
25 **WITH § 3.5-301(H) OF THIS SUBTITLE.**

26 (c) In reviewing information technology project requests, the Secretary may
27 change a unit's designation of a major information technology development project.

28 (d) The Secretary shall review and, with the advice of the Secretary of Budget and
29 Management, approve major information technology development projects and
30 specifications for consistency with all statewide plans, policies, and standards, including a
31 systems development life cycle plan.

32 (e) The Secretary shall be responsible for **[overseeing] THE OVERSIGHT OF** the
33 implementation of major information technology development projects, regardless of fund
34 source.

1 (f) With the advice of the Secretary of Budget and Management, expenditures for
 2 major information technology development projects shall be subject to the approval of the
 3 Secretary who shall approve expenditures only when those projects are consistent with
 4 statewide plans, policies, and standards.

5 (g) (1) The Secretary shall approve funding for major information technology
 6 development projects **AND THE EXPENDITURE OF FUNDS FROM THE MAJOR**
 7 **INFORMATION TECHNOLOGY DEVELOPMENT PROJECT FUND ESTABLISHED UNDER**
 8 **§ 3.5-309 OF THIS SUBTITLE** only when [those]:

9 (I) **ANNUAL INFORMATION TECHNOLOGY PROJECT FUNDING**
 10 **REQUESTS HAVE BEEN REVIEWED AND APPROVED BY THE SECRETARY;**

11 (II) **THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT**
 12 **PROJECTS ARE IN COMPLIANCE WITH STATEWIDE PLANS, POLICIES, AND**
 13 **STANDARDS, AS DETERMINED BY THE SECRETARY; AND**

14 (III) **THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT**
 15 projects are supported by an approved systems development life cycle plan.

16 (2) An approved systems development life cycle plan shall include
 17 submission of:

18 (i) a project planning request that details initial planning for the
 19 project, including:

20 1. the project title, appropriation code, and summary;

21 2. a description of:

22 A. the [needs addressed by the project] **BUSINESS AND**
 23 **TECHNOLOGY OUTCOMES TO BE ACHIEVED BY THE PROJECT;**

24 **B. FEATURES AVAILABLE TO THE END USER ON**
 25 **COMPLETION, INCLUDING USER ACCEPTANCE TESTING AND ACCESSIBILITY PLANS;**

26 [B.] **C.** the potential risks associated with the project;

27 [C.] **D.** possible alternatives; and

28 [D.] **E.** the scope and complexity of the project; and

29 3. an estimate of:

30 A. the total costs required to complete through planning; and

1 B. the fund sources available to support planning costs; and

2 (ii) a project implementation request to begin full design,
3 development, and implementation of the project after the completion of planning, including:

4 1. the project title, appropriation code, and summary;

5 2. a description of:

6 A. the [needs addressed by the project] **BUSINESS AND**
7 **TECHNOLOGY OUTCOMES TO BE ACHIEVED BY THE PROJECT AND THE METRICS BY**
8 **WHICH THE SUCCESS OF THOSE OUTCOMES WILL BE MEASURED;**

9 B. **FEATURES AVAILABLE TO THE END USER ON**
10 **COMPLETION, INCLUDING USER ACCEPTANCE TESTING AND ACCESSIBILITY PLANS;**

11 C. the potential risks associated with the project **AND**
12 **ASSOCIATED MITIGATION PLANS;**

13 [C.] D. [possible alternatives] **A LIST OF EVALUATED**
14 **ALTERNATIVES AND JUSTIFICATION AS TO WHY THOSE ALTERNATIVES WILL NOT**
15 **MEET BUSINESS AND TECHNOLOGY NEEDS;**

16 [D.] E. the scope and complexity of the project; and

17 [E.] F. how the project meets the goals of the statewide
18 master plan; and

19 3. an estimate of:

20 A. the total project cost, **BY PHASE**; and

21 B. the fund sources [available] **TO BE UTILIZED.**

22 (3) The Secretary may approve funding incrementally, consistent with the
23 systems development life cycle plan.

24 3.5–309.

25 (a) There is a Major Information Technology Development Project Fund.

26 (b) The purpose of the Fund is to support major information technology
27 development projects.

28 (c) The Secretary:

1 (1) shall administer the Fund in accordance with this section; and

2 (2) subject to the provisions of § 2–201 of this article and § 3.5–307 of this
3 subtitle, may receive and accept contributions, grants, or gifts of money or property.

4 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
5 this article.

6 (2) The State Treasurer shall hold the Fund separately and the
7 Comptroller shall account for the Fund.

8 (3) The State Treasurer shall invest and reinvest the money of the Fund in
9 the same manner as other State money may be invested.

10 (4) Any investment earnings of the Fund shall be paid into the Fund.

11 (e) Except as provided in subsection (f) of this section, the Fund consists of:

12 (1) money appropriated in the State budget to the Fund;

13 (2) as approved by the Secretary, money received from:

14 (i) the sale, lease, or exchange of communication sites,
15 communication facilities, or communication frequencies for information technology
16 purposes; or

17 (ii) an information technology agreement involving resource
18 sharing;

19 (3) that portion of money earned from pay phone commissions to the extent
20 that the commission rates exceed those in effect in December 1993;

21 (4) money received and accepted as contributions, grants, or gifts as
22 authorized under subsection (c) of this section;

23 (5) general funds appropriated for major information technology
24 development projects of any unit of State government other than a public institution of
25 higher education that:

26 (i) are unencumbered and unexpended at the end of a fiscal year;

27 (ii) have been abandoned; or

28 (iii) have been withheld by the General Assembly or the Secretary;

29 (6) any investment earnings; and

1 (7) any other money from any source accepted for the benefit of the Fund.

2 (f) The Fund does not include any money:

3 (1) received by the Department of Transportation, the Maryland
4 Transportation Authority, Baltimore City Community College, or the Maryland Public
5 Broadcasting Commission;

6 (2) received by the Judicial or Legislative branches of State government; or

7 (3) generated from pay phone commissions that are credited to other
8 accounts or funds in accordance with other provisions of law or are authorized for other
9 purposes in the State budget or through an approved budget amendment.

10 (g) The Governor shall submit with the State budget:

11 (1) a summary showing the unencumbered balance in the Fund as of the
12 close of the prior fiscal year and a listing of any encumbrances;

13 (2) an estimate of projected revenue from each of the sources specified in
14 subsection (e) of this section for the fiscal year for which the State budget is submitted; and

15 (3) a descriptive listing of projects reflecting projected costs for the fiscal
16 year for which the State budget is submitted and any estimated future year costs.

17 (h) Expenditures from the Fund shall be made only:

18 (1) in accordance with an appropriation approved by the General
19 Assembly in the annual State budget; or

20 (2) through an approved State budget amendment under Title 7, Subtitle
21 2, Part II of this article, provided that a State budget amendment for any project not
22 requested as part of the State budget submission or for any project for which the scope or
23 cost has increased by more than 5% or \$250,000 shall be submitted to the budget
24 committees allowing a 30-day period for their review and comment.

25 (i) The Fund may be used:

26 (1) for major information technology development projects;

27 (2) as provided in subsections (j) and (l) of this section; or

28 (3) notwithstanding § 3.5-301(b)(2) of this subtitle, for the costs of the first
29 12 months of operation and maintenance of a major information technology development
30 project.

1 (j) Notwithstanding subsection (b) of this section and except for the cost incurred
2 in administering the Fund, each fiscal year up to \$1,000,000 of this Fund may be used for:

3 (1) educationally related information technology projects;

4 (2) application service provider initiatives as provided for in Title 9,
5 Subtitle 22 of the State Government Article; or

6 (3) information technology projects, including:

7 (i) pilots; and

8 (ii) prototypes.

9 (k) A unit of State government or local government may submit a request to the
10 Secretary to support the cost of an information technology project with money under
11 subsection (j) of this section.

12 (l) (1) Notwithstanding subsection (b) of this section and in accordance with
13 paragraph (2) of this subsection, money paid into the Fund under subsection (e)(2) of this
14 section shall be used to support:

15 (i) the State telecommunication and computer network established
16 under § 3.5–404 of this title, including program development for these activities; and

17 (ii) the Statewide Public Safety Interoperability Radio System, also
18 known as Maryland First (first responder interoperable radio system team), under Title 1,
19 Subtitle 5 of the Public Safety Article.

20 (2) The Secretary may determine the portion of the money paid into the
21 Fund that shall be allocated to each program described in paragraph (1) of this subsection.

22 (m) (1) On or before November 1 of each year, the Secretary shall report to the
23 Governor, the Secretary of Budget and Management, and to the budget committees of the
24 General Assembly and submit a copy of the report to the General Assembly, in accordance
25 with § 2–1257 of the State Government Article.

26 (2) The report shall include:

27 (i) the financial status of the Fund and a summary of its operations
28 for the preceding fiscal year;

29 (ii) an accounting for the preceding fiscal year of all money from each
30 of the revenue sources specified in subsection (e) of this section, including any expenditures
31 made from the Fund; and

1 (iii) for each project receiving money from the Fund in the preceding
2 fiscal year and for each major information technology development project receiving
3 funding from any source other than the Fund in the preceding fiscal year:

- 4 1. the status of the project;
- 5 2. a comparison of estimated and actual costs of the project;
- 6 3. any known or anticipated changes in scope or costs of the
7 project;
- 8 4. an evaluation of whether the project is using best
9 practices; and
- 10 5. a summary of any monitoring and oversight of the project
11 from outside the agency in which the project is being developed, including a description of
12 any problems identified by any external review and any corrective actions taken.

13 (n) On or before January 15 of each year, for each major information technology
14 development project currently in development or for which operations and maintenance
15 funding is being provided in accordance with subsection (i)(3) of this section, subject to §
16 2–1257 of the State Government Article, the Secretary shall provide a summary report to
17 the Department of Legislative Services with the most up-to-date project information
18 including:

- 19 (1) project status;
- 20 (2) any schedule, cost, and scope changes since the last annual report;
- 21 (3) a risk assessment including any problems identified by any internal or
22 external review and any corrective actions taken; and
- 23 (4) any change in the monitoring or oversight status.

24 **(O) THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT**
25 **THIS SECTION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2024.