

HOUSE BILL No. 6225

June 18, 2002, Introduced by Reps. Richner, Drolet, Richardville, DeVuyst, O'Neil and Faunce and referred to the Committee on Commerce.

A bill to regulate the electronic commerce services by governmental agencies; and to prescribe the powers and duties of certain governmental agencies and officials relating to electronic commerce services.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "electronic government services act".

3 Sec. 2. As used in this act:

4 (a) "Direct costs" means all costs that would be eliminated
5 if the service or function to which they relate were
6 discontinued.

7 (b) "Electronic commerce services" means information
8 technology-based services provided to the general public,
9 including, but not limited to, any transaction completed over a

1 computer network such as the buying of goods and services on the
2 internet.

3 (c) "Full cost accounting" means, in accordance with gener-
4 ally accepted accounting principles, the systemic recording,
5 reporting, and analysis of all financial transactions that are
6 incurred in the ownership, management, or operation of a business
7 that provides electronic commerce services.

8 (d) "Governmental agency" means a department, agency,
9 bureau, division, district, board, commission, authority, or
10 public corporation of this state.

11 (e) "Indirect costs" means all costs that are not directly
12 attributable to the service or function being provided. Indirect
13 costs that support multiple services or functions shall be allo-
14 cated among those services and functions in proportion to the
15 relative burden each service or function places on the cost cate-
16 gory and by any reasonable method consistent with generally
17 accepted accounting principles.

18 (f) "Private enterprise" means an individual, firm, partner-
19 ship, joint venture, limited liability company, corporation,
20 association, or any other legal entity engaging in the manufac-
21 turing, processing, sale, offering for sale, rental, leasing,
22 delivery, dispensing, distributing, or advertising of goods or
23 services for profit.

24 (g) "Private sector" means 2 or more competing private
25 enterprises.

26 Sec. 3. Except as provided in section 4, a governmental
27 agency shall not provide or continue to provide electronic

1 commerce services to the public or expand similar services at
2 government expense. This act does not prohibit a governmental
3 agency from providing electronic commerce services to the public,
4 if those services are not provided by a private enterprise.

5 Sec. 4. (1) A governmental agency may provide electronic
6 commerce services that are already being provided by a private
7 enterprise if prior to providing these services the governmental
8 agency does all of the following:

9 (a) Provides notice of a public hearing by publishing the
10 notice of the public hearing not less than 10 days and not more
11 than 60 days before the date of the public hearing in at least
12 3 newspapers of general circulation in different parts of the
13 state, 1 of which shall be in the Upper Peninsula. Depending
14 upon the circumstances, the governmental agency may also publish
15 notice of a public hearing in trade, industry, governmental, or
16 professional publications.

17 (b) Provides notice of a public hearing electronically
18 through publicly accessible internet media not less than 10 days
19 and not more than 60 days before the date of the public hearing.

20 (c) Not later than the next business day following the pro-
21 vision of notice under subdivision (b), sends copies of the
22 notice of the public hearing to the members of the standing com-
23 mittees of the senate and house of representatives that deal with
24 the provision of public services by a governmental agency.

25 (2) The notice required under this section shall include all
26 of the following:

1 (a) A reference to the statutory authority under which the
2 governmental agency seeks to provide electronic commerce
3 services.

4 (b) The time and place of the public hearing.

5 (c) Directions outlining how the public may submit data,
6 views, questions, and arguments to the governmental agency for
7 consideration at the public hearing.

8 (d) The terms under which the governmental agency seeks to
9 provide electronic commerce services, a description of the issues
10 involved, and the proposed date that the governmental agency
11 wants to begin providing electronic commerce services.

12 (e) Findings of fact and conclusions of law made by the gov-
13 ernmental agency in support of its request to provide electronic
14 commerce services that are currently provided by a private enter-
15 prise, including, but not limited to, all of the following:

16 (i) The initial and total lifecycle costs that will be
17 incurred by the governmental agency to provide these electronic
18 commerce services, including, but not limited to, all technology,
19 infrastructure, services, contracts, personnel, and other direct
20 costs and indirect costs.

21 (ii) The costs incurred by each individual taxpayer on an
22 annualized basis and the cost to use the electronic commerce
23 services per user on an annualized basis.

24 (iii) An explanation of the cost benefit to the governmental
25 agency in expending public funds to provide the electronic com-
26 merce services.

1 (iv) Identification of a public demand that can only be
2 satisfied if the governmental agency offers electronic commerce
3 services.

4 (v) A description of how the electronic commerce services
5 provided by the governmental agency would differ from those pro-
6 vided by the private sector.

7 (vi) An economic impact analysis demonstrating the effect on
8 the private sector and existing industry if the governmental
9 agency is permitted to provide electronic commerce services.

10 (3) The public hearing required under this section shall
11 comply with any applicable statute but is not subject to the pro-
12 visions governing a contested case under the administrative pro-
13 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

14 (4) The governmental agency shall designate 1 or more indi-
15 viduals familiar with the electronic commerce services offered by
16 the governmental agency to be present at the public hearing and
17 participate in the discussion.

18 (5) Any interested person, including a provider of elec-
19 tronic commerce services who resides within or does business in
20 this state, may request a declaratory ruling under section 63 of
21 the administrative procedures act of 1969, 1969 PA 306,
22 MCL 24.263, regarding the factual and legal sufficiency of the
23 information provided by the governmental agency under this act or
24 regarding the provision of electronic commerce services by a gov-
25 ernmental agency not made in conformance with this act.

1 Sec. 5. This act does not prohibit a governmental agency
2 from offering electronic commerce services to the general public
3 prior to the effective date of this act.

4 Sec. 6. If a governmental agency provides electronic com-
5 merce services under section 4, the governmental agency shall
6 prepare and publish, on or before December 30 of each year, an
7 annual report on its electronic commerce services for the immedi-
8 ately preceding state fiscal year. The report shall be in
9 accordance with full cost accounting and shall include disclosure
10 of the amount, source, and cost of working capital utilized for
11 its electronic commerce services. A copy of the report shall be
12 transmitted to members of the appropriations committees of the
13 senate and house of representatives.