

*Alþingi*  
*Erindi nr. P 135/97*  
*komudagur 7.11.2005*

**Umsögn tillögu til þingsályktunar um samkeppnisstöðu  
fyrirtækja í eigu ríkis og sveitarfélaga**

ELEA Network  
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12. nóvember 2007  
þskj. 16 – 16.mál

Tillaga til þingsályktunar um samkeppnisstöðu fyrirtækja í eigu ríkis og sveitarfélaga.

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## Inngangur

Umsögn þessari er ætlað að fjalla um hlut fyrirtækja og stofnana ríkis og sveitarfélaga á sviði upplýsingatækni sérstaklega.

Flest ef ekki öll fyrirtæki/stofnanir ríkis og sveitarfélaga þurfa á einhverslags tölvuvinnslu að halda hvort heldur sem það er í umsýslu/geymslu gagna eða greiningar og skýrslugerð. Ennfremur er þörf þessara stofnana á öflugum hugbúnaði töluverð.

Almennt er geymsla gagna á höndum ríkisstofnanna sjálfra og er aðgengi að þeim veitt með tilskyldum leyfum og þá í gegnum gáttir sem oftast hafa verið hannaðar af þessum sömu stofnunum í öðrum tilgangi, s.s. aðgengi gagna til starfsmanna o.s.frv.

Vinna við greiningar og skýrslugerðir er svo á höndum sérfræðinga og tæknimanna stofnananna. Óhætt skal talið að slíkar skýrslugerðir séu framkvæmdar með reglulegu millibili og því oft um margverknað að ræða með tilskyldu óhagræði. Tæknimenn leysa því slík vandamál með smíði þröngt afmarkaðra kerfa sem gera ekkert annað en að leysa örfáar skýrslugerðir í stað kaupa á öflugum skýrslugerðartólum sem sérfræðingar geta þá nýtt sér, jafnvel án aðkomu tæknimanna.

Slík tölvuvinna sjaldnast nefnd þróunarvinna þar sem verkefnin eru ekki fyrirfram skilgreind né tekur slík vinna mjög langan tíma. Aftur á móti eiga slík kerfi það til að vinda upp á sig með tilheyrandi kostnaði, þegar skýrslum fjölgar, án þess að slík vinna verði nokkurn tímann hluti af heildar fjárhagsáætlun viðkomandi stofnunar.

## Hagræði

Í upplýsingasamfélagi nútímans er mjög mikilvægt að hlúa að upplýsingatæknifyrirtækjum á einkamarkaði og sjá til þess að slík fyrirtæki geti boðið starfsmönnum sínum upp á krefjandi verkefni.

Til þess að slíkt sé hægt er því nauðsynlegt að öll tölvuvinnsla ríkisstofnanna færist á hendur einkaaðila, hvort sem það er hýsing gagna, aðstoð við sérfræðinga, smíði kerfa eða einföld notendahjálp.

Hagræðið sem næst við slíkar aðgerðir felst helst í:

- Aukinni samkeppni á sviði upplýsingatækni, sem leiðir af sér hagstæðari verð.
- Fyrirtæki sem smíða vörur sem selja má á alþjóðlegum vettfangi og skapar því tekjur fyrir ríkissjóð sem mótvægi við útgjöldum.
- Aukin nýsköpun þar sem eftir meiru er að slæðast á þessum markaði.

Íslenska ríkisstjórnin ætti að setja sér það sem markmið að Íslands verði fremst í flokki hvað varðar rafræn samskipti fólks við ríkisstofnanir og samskipti ríkisstofnana hver við aðra.

Vegna smæðar íslensks hagkerfis ætti slíkt að vera auðsótt og tilvalið fyrir upplýsingatæknifyrirtæki að þróa lausnir til stafrænnar umsýslu sem auðvelt er að prófa og að endingu selja til stærri hagkerfa. Íslenskt hagkerfi er því kjörinn vettfangur til hönnunar og smíði þróaðra tóla til ríkisreksturs.

Slík tilhögun gæti vel nýst háskólum á Íslandi á sviði viðskipta og hagfræði náms sem og hvers kyns rannsóknarfögum sem aftur gæti gert skólana eftirsóknaverða af nemum erlendis frá.

# Úrræði

Við tillögu þingsályktunar mætti því bæta:

Öll gögn ríkis og sveitarfélaga, á rafrænu formi, skulu hýst af einkaaðilum, að uppfylltum tilskyldum leyfum ef um persónuupplýsingar er að ræða, gögn eru þó ávallt í eigu ríkis og sveitarfélaga.

Öllum skal frjálts aðgangur að tjeðum gögnum samkvæmt þeim leiðum sem eigendur gagna telja eðlileg.

Með öllu er óheimilt að taka gjald fyrir dreifingu gagna, þó er heimilt að selja afurðir sem notast við þessi gögn svo sem greiningarviðmót eða skýrslugerðartól.

Kaup og útböð á tölvukerfum og lausnum skulu vera á höndum sérhæfðar stofnunar sem annað hvort heyrir undir ríkiskaup eða er sjálfstæð.

## **Upptalning nokkurra lykilstofnana sem geyma mikið magn gagna án viðunandi aðgengis:**

Hagstofa Íslands  
Seðlabanki Íslands  
Fjármálaeftirlitið  
Fasteignamat Ríkissins  
Veðurstofa Íslands  
Fjármálaráðuneytið (Fjarlagavefurinn, fjarlog.is)

Helstu vandkvæði aðgengis gagna þessara stofnana felst í því að gögn eru í flestum tilfellum eingöngu aðgengileg í Microsoft Excel sem útheimtir töluverða úrvinnslu af hálfu þess sem gögnin sækir.

## **Dæmi um núverandi vinnuhætti:**

ELEA Network sérhæfir sig í endursölu opinberra gagna ásamt því að smíða kerfi fyrir innri rekstur fyrirtækja.

Meðal þess sem telst til daglegs reksturs ELEA Network er uppfærsla gagna frá Hagstofu Íslands og Seðlabanka Íslands.

Mikil vinna fer í að niðurhala Excel skjölum, endurraða upplýsingum og innflutnings í kerfi ELEA Network.

Með aðgengi að gagnagrunnum þessara stofnana mætti gera þessar aðgerðir sjálfvirkar og spara með því töluverða fjármuni við handavinnu auk þess sem uppfærslur myndu eiga sér stað samstundis.

## **Tillögur**

Lagt er til að hver ofantalinna stofnana bjóði út hýsingu á þessum gögnum hjá einkaaðilum en geri öllum, þeim sem áhuga hafa, kleift að afrita gögnin með einföldum hætti.

Einnig er lagt til að ríkið setji stefnu í aðferðarfræði um dreifingu gagna með samræmdum hætti, eins konar ríkisgátt gagna.

# **Fylgiskjal A – Bill of Ohio**

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 145**

**Representatives Buehrer, Aslanides, Brinkman, C. Evans, Fessler,  
D. Evans, Schaffer, White, Gilb**

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## **A BILL**

To amend section 1306.20 and to enact sections 1306.25, 1306.26, 1306.27, 1306.28, and 1306.29 of the Revised Code to adopt the Electronic Government Services Act to prohibit a government agency from providing duplicative or competing electronic commerce services with the private sector, other than described cable service, unless the government agency complies with procedures established by the Act.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1. That section 1306.20 be amended and sections 1306.25, 1306.26, 1306.27, 1306.28, and 1306.29 of the Revised Code be enacted to read as follows:**

**Sec. 1306.20. (A) Subject to section 1306.11 and to sections 1306.25 to 1306.29 of the Revised Code, each state agency shall determine if, and the extent to which, it will send and receive electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.**

**(B)(1) Subject to division (B)(2) of this section, a state agency may waive a requirement in the Revised Code, other than a requirement in sections 1306.01 to 1306.15 of the Revised Code, that relates to any of the following:**

- (a) The method of posting or displaying records;**
- (b) The manner of sending, communicating, or transmitting records;**
- (c) The manner of formatting records.**

**(2) A state agency may exercise its authority to waive a requirement under division (B)(1) of this section only if the following apply:**

- (a) The requirement relates to a matter over which the state agency has**

**jurisdiction;**

**(b) The waiver is consistent with criteria set forth in rules adopted by the state agency. The criteria, to the extent reasonable under the circumstances, shall contain standards to facilitate the use of electronic commerce by persons under the jurisdiction of the state agency consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.**

**(C) If a state agency creates, uses, receives, or retains electronic records, both of the following apply:**

**(1) Any rules adopted by a state agency relating to electronic records shall be consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.**

**(2) Each state agency shall create, use, receive, and retain electronic records in accordance with section 149.40 of the Revised Code.**

**(D) If a state agency creates, uses, or receives electronic signatures, the state agency shall create, use, or receive the signatures in accordance with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.**

**(E)(1) To the extent a state agency retains an electronic record, the state agency may retain a record in a format that is different from the format in which the record was originally created, used, sent, or received only if it can be demonstrated that the alternative format used accurately and completely reflects the record as it was originally created, used, sent, or received.**

**(2) If a state agency in retaining any set of electronic records pursuant to division (E)(1) of this section alters the format of the records, the state agency shall create a certificate of authenticity for each set of records that is altered.**

**(3) The department of administrative services, in consultation with the state archivist, shall adopt rules in accordance with section 111.15 of the Revised Code that establish the methods for creating certificates of authenticity pursuant to division (E)(2) of this section.**

**(F) Whenever any rule of law requires or authorizes the filing of any information, notice, lien, or other document or record with any state agency, a filing made by an electronic record shall have the same force and effect as a filing made on paper in all cases where the state agency has authorized or agreed to such electronic filing and the filing is made in accordance with applicable rules or agreement.**

**(G) Nothing in sections 1306.01 to 1306.23 of the Revised Code shall be construed to require any state agency to use or permit the use of electronic records and electronic signatures.**

**(H)(1) Notwithstanding division (C)(1) or (D) of this section, any state agency that, prior to the effective date of this section September 14, 2000, used or permitted the use of electronic records or electronic signatures pursuant to laws enacted, rules adopted, or agency policies adopted before the effective date of this section September 14, 2000, may use or permit the use of electronic records or electronic signatures pursuant to those previously enacted laws, adopted rules, or adopted policies for a period of two years after the effective date of this section September 14, 2000.**

**(2) Subject to division (H)(3) of this section, after the two-year period described in division (H)(1) of this section has concluded, all state agencies that use or permit the use of electronic records or electronic signatures before the effective date of this section September 14, 2000, shall only use or permit the use of electronic records or electronic signatures consistent with rules adopted by the department of administrative services pursuant to division (A) of section 1306.21 of the Revised Code.**

**(3) After the two-year period described in division (H)(1) of this section has concluded, the department of administrative services may permit a state agency to use electronic records or electronic signatures that do not comply with division (H)(2) of this section, if the state agency files a written request with the department.**

**(I) For the purposes of this section, "state agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, but does not include the general assembly, any legislative agency, the supreme court, the other courts of record in this state, or any judicial agency.**

**Sec. 1306.25. As used in sections 1306.25 to 1306.29 of the Revised Code:**

**(A) "Commercial activity" means performing services or providing goods that normally can be obtained from a private enterprise.**

**(B) "Direct costs" means all costs, whether capital costs, operating costs, or otherwise, that would be eliminated if the service or function to which the costs relate is discontinued.**

**(C) "Electronic commerce services" means services relating to commercial activity that are the same as, similar to, or overlap information technology-based services provided to the public by two or more competing private enterprises. "Electronic commerce services" includes services made in connection with a transaction completed over a computer network, such as the buying of goods or services over the internet.**

**(D) "Full cost accounting" means, in accordance with generally accepted accounting principles, accounting for all direct costs and indirect costs, including capital costs, that are incurred in the ownership, management, or operation of electronic commerce services.**

**(E) "Government agency" means either of the following:**

**(1) A state agency as defined in section 117.01 of the Revised Code or a similar agency of a county, township, municipal corporation, or other political subdivision of this state;**

**(2) Any entity that is not majority-owned as private property and is established by law or by order or action of a state agency or similar agency of a county, township, municipal corporation, or other political subdivision, or an officer of that state or similar agency.**

**(F) "Indirect costs" means all costs, whether capital costs, operating costs, or otherwise, that are not direct costs.**

**(G) "Private enterprise" means an individual, firm, partnership, joint venture, corporation, association, or other legal entity engaging, in the private sector, in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.**

**Sec. 1306.26. (A) The general assembly finds and declares that the growth of private enterprises is essential to the health, welfare, and prosperity of this state, and that government competes with the private sector when it provides goods and services to the public.**

**(B) It is the intent of the general assembly and the purpose of sections 1306.25 to 1306.29 of the Revised Code to protect economic opportunities for private industry against unfair competition by government agencies and to enhance the efficient provision of public goods and services.**

**(C) Sections 1306.25 to 1306.29 of the Revised Code may be cited as the "electronic government services act."**

**Sec. 1306.27. (A) Except as provided in section 1306.28 of the Revised Code, if two or more competing private enterprises provide electronic commerce services, a government agency shall not engage, through the expenditure of public moneys, in any activity to provide or offer those electronic commerce services to the public or expand similar electronic commerce services to the public.**

**(B) Any provider of electronic commerce services that resides or does business in this state has standing to bring a cause of action for appropriate relief in a court of competent jurisdiction challenging the provision of electronic commerce services by a government agency not made in accordance with sections 1306.25 to 1306.29 of the Revised Code.**

**(C) Nothing in sections 1306.25 to 1306.29 of the Revised Code prohibits a government agency from providing electronic commerce services to the public in the absence of two or more competing private enterprises providing those services.**

**Sec. 1306.28. (A) A government agency may provide duplicative or**

**competing electronic commerce services to the public if the agency complies with this section.**

**(B)(1) Before a government agency provides duplicative or competing electronic commerce services to the public, the government agency shall hold a public hearing to allow public comment about the agency's proposed electronic commerce services.**

**(2) The government agency shall provide at least thirty days' public notice of the time and place of the public hearing described in division (B)(1) of this section in one or more newspapers of general circulation in the county or counties within the jurisdiction of the government agency. During the thirty-day period before the public hearing, the government agency shall make its proposal for providing duplicative or competing electronic commerce services to the public available for public inspection in a prominent public location within the county or counties where the public notice described in this division is provided.**

**(C) The public notice described in division (B) of this section also shall set forth all of the following:**

**(1) The government agency's proposed findings of fact and conclusions of law describing the reasons why it believes it is necessary and in the public interest to provide duplicative or competing electronic commerce services to the public and citing the legal authority that permits the government agency to do so;**

**(2) The initial and total lifecycle costs of the proposed duplicative or competing electronic commerce services, which include, but are not limited to, all technology, infrastructure, services, contracts, and direct or indirect personnel costs;**

**(3) The individual per taxpayer cost of the proposed duplicative or competing electronic commerce services on an annualized basis and the cost of these services per user on an annualized basis;**

**(4) The government agency's reasons for believing that the cost benefits of providing duplicative or competing electronic commerce services require the expenditure of public moneys;**

**(5) An identification of unmet needs in the consumer marketplace that the proposed duplicative or competing electronic commerce services would fulfill;**

**(6) A description of how the proposed duplicative or competing electronic commerce services would differ from those provided by two or more competing private enterprises;**

**(7) An economic impact analysis demonstrating that the offering of the proposed duplicative or competing electronic commerce services by the government agency will not be anticompetitive in its effect on the existing industry and will not adversely impact or distort the marketplace of two or**

more competing private enterprises providing the same or similar electronic commerce services.

(D)(1) After reviewing comments from the public following the public hearing described in this section, if the head of a government agency decides to proceed with offering duplicative or competing electronic commerce services to the public, the head of the government agency shall sign factual and legal conclusions addressing the comments and each of the factors set forth in the public notice described in division (C) of this section, and send a written notice to the controlling board that sets forth these conclusions and the government agency's decision to proceed.

(2) A government agency shall not offer duplicative or competing electronic commerce services to the public without the approval of the controlling board.

(3) The controlling board may continue to exercise oversight with respect to any approval decision it makes under division (D)(2) of this section.

(E)(1) Any government agency providing electronic commerce services in a jurisdiction where a private enterprise provides the same electronic commerce services shall prepare and publish an annual report about its electronic commerce services.

(2) The annual report described in division (E)(1) of this section substantially shall be in accordance with full cost accounting and shall disclose the amount, source, and cost of working capital utilized by the government agency for providing electronic commerce services.

(F) For purposes of providing the public notice and preparing and publishing the annual report described in this section, a government agency, by any reasonable method consistent with applicable generally accepted accounting principles, shall allocate indirect costs that support multiple electronic commerce services or functions among those services and functions in proportion to the relative burden each service or function places on the cost category.

Sec. 1306.29. (A) Nothing in sections 1306.25 to 1306.28 of the Revised Code applies to the installation, construction, expansion, maintenance, or operation of any physical infrastructure by a political subdivision that is a public cable service provider, in accordance with Chapter 1332. of the Revised Code and whether on its own or in conjunction with other public cable service providers or private cable service providers, for the sole purpose of providing cable service under such authority as otherwise conferred by law.

(B) For purposes of division (A) of this section, "public cable service provider," "private cable service provider," and "cable service" have the same meanings as in section 1332.01 of the Revised Code.

## **Fylgiskjal B – Vefslóðir “hugbúnaðarráðuneyta” nokkurra landa**

Indland: <http://www.mit.gov.in/>

Pakistan: <http://www.pakistan.gov.pk/ministries/index.jsp?MinID=7&cPath=78>

Egyptaland: <http://www.mcit.gov.eg/>

Mauritius: <http://telecomit.gov.mu/>

Australia: <http://www.dcita.gov.au/>

Korea: <http://eng.mic.go.kr/eng/index.jsp>