By:  Paxton S.B. No. 1204

(In the Senate - Filed February 24, 2023; March 9, 2023, read first time and referred to Committee on Business & Commerce; April 6, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 11, Nays 0; April 6, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell             X

Campbell             X

Creighton            X

Johnson              X

Kolkhorst            X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 1204 By:  Campbell

A BILL TO BE ENTITLED

AN ACT

relating to state and local government information technology and information security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 2054.003, Government Code, is amended by adding Subdivisions (11) and (11-a) to read as follows:

(11)  "Peer-to-peer payment" means a transfer of funds using a peer-to-peer payment system.

(11-a)  "Peer-to-peer payment system" means a digital non-credit card system used for transferring funds from one party to another.

SECTION 2.  The heading to Section 2054.0594, Government Code, is amended to read as follows:

Sec. 2054.0594.  INFORMATION SHARING AND ANALYSIS ORGANIZATIONS [~~ORGANIZATION~~].

SECTION 3.  Section 2054.0594, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (a-1) to read as follows:

(a)  The department shall establish an intrastate information sharing and analysis organization to provide a forum for state agencies, local governments, public and private institutions of higher education, and [~~the~~] private sector entities in this state to share information regarding cybersecurity threats, best practices, and remediation strategies.

(a-1)  The department may establish an interstate information sharing and analysis organization to provide a forum for states to share information regarding cybersecurity threats, best practices, and remediation strategies.

(b)  The department shall provide administrative support to each [~~the~~] information sharing and analysis organization established under this section.

(c)  A participant in an [~~the~~] information sharing and analysis organization established under this section shall assert any exception available under state or federal law, including Section 552.139, in response to a request for public disclosure of information shared through the organization. Section 552.007 does not apply to information described by this subsection.

SECTION 4.  Section 2054.060, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  Unless expressly prohibited by other law or a rule adopted by the state agency, a state agency shall accept a digital signature included in any communication or payment electronically delivered to the state agency.

SECTION 5.  The heading to Section 2054.068, Government Code, is amended to read as follows:

Sec. 2054.068.  STATE AGENCY INFORMATION TECHNOLOGY INFRASTRUCTURE: INFORMATION SECURITY RATING; AUDIT; REPORT.

SECTION 6.  Section 2054.068, Government Code, is amended by amending Subsections (b), (c), and (d) and adding Subsections (c-1), (c-2), (c-3), (c-4), (e-1), (e-2), and (e-3) to read as follows:

(b)  The department shall collect from each state agency information on the status and condition of the agency's information technology infrastructure, including [~~information regarding~~]:

(1)  information on the agency's information security program;

(2)  an inventory of the agency's servers, mainframes, cloud services, and other information technology equipment;

(3)  identification information for [~~of~~] vendors that operate and manage the agency's information technology infrastructure; [~~and~~]

(4)  the results of the information security assessment required by Section 2054.515; and

(5)  any additional related information requested by the department.

(c)  A state agency shall provide the information required by Subsection (b) to the department not later than June 1 of each even-numbered year [~~according to a schedule determined by the department~~].

(c-1)  The department shall assign to each state agency, other than an institution of higher education, one of the following information security ratings based on the agency's information security risk profile:

(1)  above average;

(2)  average; or

(3)  below average.

(c-2)  In assigning an information security rating to a state agency under Subsection (c-1), the department shall consider:

(1)  the information the agency provides under Subsection (b);

(2)  the agency's comprehensive information security risk position relative to the agency's risk environment; and

(3)  any additional document or information the department requests from the agency.

(c-3)  The department:

(1)  shall develop options and make recommendations for improvements in the information security maturity of any state agency assigned an information security rating of below average under Subsection (c-1); and

(2)  may assist any state agency in determining whether additional security measures would increase the agency's information security maturity.

(c-4)  The department may audit the information security and technology of any state agency assigned an information security rating under Subsection (c-1) or contract with a vendor to perform the audit. The department shall make available on request by any person listed in Subsection (d) the results of an audit conducted under this subsection.

(d)  Not later than November 15 of each even-numbered year, the department shall submit to the governor, chair of the house appropriations committee, chair of the senate finance committee, speaker of the house of representatives, lieutenant governor, and staff of the Legislative Budget Board:

(1)  a consolidated report of the information submitted by state agencies under Subsection (b); and

(2)  any department recommendations relevant to and necessary for improving this state's information technology infrastructure and information security.

(e-1)  The department shall compile a summary of the consolidated report required under Subsection (d) and make the summary available to the public. The summary may not disclose any confidential information.

(e-2)  The consolidated report required under Subsection (d) and all information a state agency submits to substantiate or otherwise related to the report are confidential and not subject to disclosure under Chapter 552. The state agency or the department may redact or withhold information as confidential under Chapter 552 without requesting a decision from the attorney general under Subchapter G, Chapter 552.

(e-3)  Following review of the consolidated report, the Legislative Budget Board may direct the department to select for participation in a statewide technology center established under Subchapter L any state agency assigned an information security rating under Subsection (c-1). The department shall notify each selected state agency of the agency's selection as required by Section 2054.385. The department is not required to conduct the cost and requirements analysis under Section 2054.384 for a state agency selected for participation under this subsection. This subsection expires September 1, 2027.

SECTION 7.  Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0692 to read as follows:

Sec. 2054.0692.  GUIDANCE ON USE OF DISTRIBUTED LEDGER TECHNOLOGY. (a) The department shall develop and disseminate guidance for the use of distributed ledger technology, including blockchain, among state agencies.

(b)  The guidance must include a framework or model for deciding if distributed ledger technology is appropriate for meeting a state agency's needs. The guidance may include:

(1)  examples of potential uses of distributed ledger technology by an agency;

(2)  sample procurement and contractual language; and

(3)  information on educational resources for agencies on distributed ledger technology.

SECTION 8.  Section 2054.095(b), Government Code, is amended to read as follows:

(b)  Except as otherwise modified by the Legislative Budget Board or the governor, instructions under Subsection (a) must require each state agency's strategic plan to include:

(1)  a description of the agency's information resources management organizations, policies, and practices, including the extent to which the agency uses its project management practices, as defined by Section 2054.152;

(2)  a description of how the agency's information resources programs support and promote its mission, goals, and objectives and the goals and policies of the state strategic plan for information resources; [~~and~~]

(3)  a description of customer service technology, including telephone systems and websites, that improves customer service performance; and

(4)  other planning components that the department may prescribe.

SECTION 9.  Section 2054.1115, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  A state agency or local government that uses the state electronic Internet portal may use electronic payment methods, including the acceptance of peer-to-peer payments, credit cards, and debit cards, for:

(1)  point-of-sale transactions, including:

(A)  person-to-person transactions;

(B)  transactions that use an automated process to facilitate a person-to-person transaction; and

(C)  transactions completed by a person at an unattended self-standing computer station using an automated process;

(2)  telephone transactions; or

(3)  mail transactions.

(c)  The department shall identify the three most commonly used peer-to-peer payment systems and post a list containing those systems in a conspicuous location on the department's Internet website. The department shall biennially review and, if necessary, update the list required under this subsection.

SECTION 10.  Section 2054.136, Government Code, is amended to read as follows:

Sec. 2054.136.  DESIGNATED INFORMATION SECURITY OFFICER. (a) Each state agency shall designate an information security officer who:

(1)  reports to the agency's executive-level management;

(2)  has authority over information security for the entire agency;

(3)  possesses the training and experience required to perform the duties required by department rules; and

(4)  to the extent feasible, has information security duties as the officer's primary duties.

(b)  An employee designated under Subsection (a) may be designated to serve as a joint information security officer by two or more state agencies. The department must approve the joint designation.

SECTION 11.  Subchapter L, Chapter 2054, Government Code, is amended by adding Section 2054.393 to read as follows:

Sec. 2054.393.  MARKETING OF SERVICES. (a) Notwithstanding Section 2113.011 and subject to Subsection (b), the department may use appropriated money to market to state agencies and local governments shared information resources technology services offered by the department under this subchapter, including data center, disaster recovery, and cybersecurity services.

(b)  An expenditure of money under this section must be approved by the executive director.

SECTION 12.  The heading to Section 2054.515, Government Code, is amended to read as follows:

Sec. 2054.515.  STATE AGENCY INFORMATION SECURITY ASSESSMENT [~~AND REPORT~~].

SECTION 13.  Sections 2054.515(a), (c), and (d), Government Code, are amended to read as follows:

(a)  At least once every two years, each state agency shall conduct an information security assessment of the agency's[~~:~~

[~~(1)~~]  information resources systems, network systems, digital data storage systems, digital data security measures, and information resources vulnerabilities[~~; and~~

[~~(2)  data governance program with participation from the agency's data management officer, if applicable, and in accordance with requirements established by department rule~~].

(c)  Each state agency shall complete the information security assessment in consultation with the department or the vendor the department selects and submit the results of the assessment to the department in accordance with Section 2054.068(b) [~~The department by rule shall establish the requirements for the information security assessment and report required by this section~~].

(d)  All [~~The report and all~~] documentation related to the information security assessment is [~~and report are~~] confidential and not subject to disclosure under Chapter 552. The state agency or department may redact or withhold the information as confidential under Chapter 552 without requesting a decision from the attorney general under Subchapter G, Chapter 552.

SECTION 14.  Section 2054.577(c), Government Code, is amended to read as follows:

(c)  Money in the fund:

(1)  may be used to improve and modernize state agency information resources, including legacy system projects and cybersecurity projects; [~~and~~]

(2)  may be used to mitigate a breach or suspected breach of system security, as defined by Section 521.053, Business & Commerce Code, or the introduction of ransomware, as defined by Section 33.023, Penal Code, into a computer, computer network, or computer system at a state agency;

(3)  may not be used to replace money appropriated to a state agency for the purposes of operating and maintaining state agency information resources or reduce the amount of money appropriated to a state agency for those purposes; and

(4)  may not be used to pay a person who commits the offense of electronic data tampering punishable under Section 33.023, Penal Code.

SECTION 15.  Chapter 2056, Government Code, is amended by adding Section 2056.0023 to read as follows:

Sec. 2056.0023.  INFORMATION TECHNOLOGY MODERNIZATION PLAN. (a) As part of the strategic plan required under Section 2056.002, a state agency shall include an information technology modernization plan that outlines the manner in which the agency intends to transition its information technology and data-related services and capabilities into a more modern, integrated, secure, and effective technological environment.

(b)  The Department of Information Resources may provide a template for the information technology modernization plan required by this section.

SECTION 16.  The following provisions are repealed:

(1)  Section 2054.068(f), Government Code; and

(2)  Section 2054.515(b), Government Code, as amended by Chapters 567 (S.B. 475) and 856 (S.B. 800), Acts of the 87th Legislature, Regular Session, 2021.

SECTION 17.  The Department of Information Resources shall develop and disseminate the guidance and decision model required by Section 2054.0692, Government Code, as added by this Act, not later than December 1, 2023.

SECTION 18.  This Act takes effect September 1, 2023.

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