

CHUCK RILEY
STATE SENATOR
District 15



OREGON STATE SENATE
900 COURT ST NE, S-303
SALEM, OR 97301

RE: Testimony in support of HB3099 as Introduced

House Committee on Consumer Protection and Government Effectiveness:

Chair Fagan, Vice-Chairs Buehler and Rayfield, and members of the Committee, I'm pleased to provide this testimony in support of HB3099 as Introduced.

The goal of HB3099 is straightforward –

- 1) To clarify and confirm that the State Chief Information Officer is the Governor's primary advisory on all matters related to Information Technology, Information Security and Telecommunications
- 2) To transfer IT and Telecommunications related duties, powers and responsibilities currently placed with the Oregon Department of Administrative Services and the DAS Director to the State CIO.

The rationale for this statutory clarification and transfer of powers is, in my mind, grounded in the following:

Background – HB 3258: Establishment of the State CIO and Office of the State CIO

- As you may know, HB 3258 was introduced and passed into law following the close of the 2013 Legislative Session and was codified within ORS 291.038 and 291.039.
- HB3258 created the position of the State Chief Information Officer as a Governor's appointee BUT (through a negotiated amendment with the DAS Director and the Governor's Office at the time) established the Office of the State Chief Information Officer within the Oregon Department of Administrative Services.
- The intent of HB 3258 was to transfer certain IT related powers from the DAS Director to the State CIO and to ensure that the State Chief Information had the authority to adopt rules needed "to exercise and carry out the duties, functions and powers committed to the State Chief Information Officer under ORS 291.038 and **other statutes, rules or policies that commit functions to the State Chief Information Officer.**"
- However, upon a detailed review of current law, most of the Oregon Revised Statutes related to information technology, information security, telecommunications or related topics.... **DO NOT COMMIT FUNCTIONS TO THE STATE CIO....**
- Instead those Oregon Revised Statutes (nearly 40 of them in all) place the duties, powers, responsibility and accountability for all things related to IT (IT operations AND IT rule, policy, standards, and oversight authority) with the Oregon Department of Administrative Services and the DAS Director.

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Problem #1: Statutes conflict, conferring similar (sometimes identical) duties, functions, and powers to both the State CIO and the DAS Director/DAS.

The duties, functions, and powers of the State CIO and DAS Director for Statewide IT Policy (rules, policies, standards, oversight) are unclear/ambiguous.

Problem #2: Current law (ORS 291.039) indicates that the State CIO is a governor's appointee but places the Office of the State CIO within DAS. Although current statute states that the State CIO shall perform the duties of the office, as determined by the Governor....."in consultation with the Director of the Oregon Department of Administrative Services" has led to a practical reality where the DAS Director appears to be determining the duties of the State CIO/Office of the State CIO and directly supervising the day to day activities of the State CIO. In my view, as the State CIO is a Governor's appointee, the Governor should direct the activities of the State CIO not the Director of DAS.

Background – Entrepreneurial Management (Split of IT Policy and Service within DAS)

- 2009 - the Oregon Legislature (following heightened concern about DAS ability to effectively fulfill BOTH its state leadership/oversight and statewide service delivery responsibilities within the same agency) required Oregon DAS within HB5002 to study whether DAS should be broken back apart into the General Services Department and the Executive Department.
- 2010 - In response to HB5002, Oregon DAS generated a report in June 2010 (<http://www.oregon.gov/DAS/docs/hb5002/report.pdf>) that recommended that Oregon DAS remain as a single agency and instead implement the Entrepreneurial Management Model in line with the approach the State of Iowa had taken.
- 2011- Governor Kitzhaber took office in January 2011 and appointed Michael Jordan as the Oregon DAS Director and Chief Operating Officer in March 2011.
- 2012 - DAS implemented the Entrepreneurial Management Model splitting the policy/leadership and service functions within Oregon DAS in June 2012. For Information Technology this involved the split between the Office of the State CIO and the DAS Enterprise Technology Services Division.
 - *Oregon DAS did not begin with the approach Iowa had settled on for IT governance, oversight, operations, and consolidation in 2010, but instead decided to implement the original approaches Iowa took from 2004 forward. Note: In 2010 Iowa had already placed the Iowa Enterprise Technology Services (ETS)-like organization under the direct supervision and control of the State CIO via executive order.*
- 2013 - This organizational structure which separates leadership/policy and operational responsibility for Policy Offices from the Enterprise Service Divisions was then codified within the 2013-15 DAS Legislatively Approved Budget.
- Under that structure, the State Chief Information Officer leads a planning, policy and oversight office BUT does not have formal supervisory or operational authority over the operations of the Enterprise Technology Services Division (which includes the State Data Center, the E-Government program and other Statewide IT related service units).

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- The ETS Division is led by an Administrator (classified at a peer level of pay and position with the State CIO) that formally reports within the Organization Chart to the DAS Deputy Director and ultimately to the DAS Director/COO.
- In 2014 – Iowa, the state that Oregon emulated in its implementation of Entrepreneurial Management, passed a law (Iowa Code Chapter 8B.2) that creates the office of the chief information officer as an independent agency from the Iowa Department of Administrative Services and calls for full scale consolidation of IT resources under the authority of the Iowa State CIO. Several other states – Florida and Washington – have or are currently pursuing similar changes in law.
 - Iowa Code Chapter 8B
[http://search.legis.state.ia.us/nxt/gateway.dll/ic/1/13/14/301/576?f=templates\\$fn=document-frameset.htm\\$q=\[field%208B\]\\$x=Advanced#0-0-0-429](http://search.legis.state.ia.us/nxt/gateway.dll/ic/1/13/14/301/576?f=templates$fn=document-frameset.htm$q=[field%208B]$x=Advanced#0-0-0-429)
 - Florida
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0282/0282.html
 - Organizational Structure
http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=chief+information+officer&URL=0000-0099/0020/Sections/0020.61.html
 - Washington
<http://app.leg.wa.gov/billinfo/summary.aspx?bill=1391&year=2015>
<http://lawfilesexternal.leg.wa.gov/biennium/2015-16/Pdf/Bills/House%20Bills/1391-S2.pdf>

February 2014 – March 2015 (State CIO - Transition of Responsibility from Policy to Policy & Operations)

- Almost immediately after the State CIO's appointment by Governor Kitzhaber in early 2014 he was assigned by the DAS Director to serve as the Interim CIO for Cover Oregon – exercising operational oversight and management of Cover Oregon's IT Organization including the troubled Health Insurance Exchange project.
- The State CIO was tasked with stabilizing the exchange and establishing a plan for the future. When that IT related stabilization work was completed in July/August 2014 and the State CIO was scheduled to return to his normal duties.
- However, over the past six to nine months or so – the State CIO has been directed to take on progressively broader levels of responsibility for oversight, coordination and planning of Statewide IT operations.
- This work has involved a statewide review of Enterprise Technology Services, the review and stabilization of State Data Center service offerings, and the identification of "Utility" IT services which would be provided to all executive branch agencies by one or more authorized Utility service providers.
- Finally, in February 2015, the former DAS Director, Michael Jordan, took the formal step of transferring day to day supervisory/operational responsibility for the Enterprise Technology Services Division to the State Chief Information Officer on an interim basis to get a handle on a division that was "out of control," and that "has had a history of internal discord with employees complaining of retaliation, discrimination and other unfair treatment."

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- In March 2015, following the transition of DAS Directors, the State CIO was asked to continue his role in providing *interim* executive leadership to the ETS Division while DAS planned for the future.
- Finally, following an information security breach at the State Data Center, Governor Brown **directed** the State CIO to “to take charge of the ETS unit, managing its daily operations and services for the **foreseeable future**..... and continue to work closely with the Legislature to address how I.T. resources should be structured and funded in the future to ensure transparency and public access to information as well as secure, cost-effective service delivery.”
- The State CIO now has responsibility for BOTH statewide IT planning, policy adoption, standards setting, rulemaking, AND enterprise IT operations and service delivery to state agencies albeit on an *interim* basis.

Problem #3 - The State CIO now has responsibility for BOTH statewide IT planning, policy adoption, standards setting, rulemaking, AND enterprise IT operations and service delivery to state agencies...**for the foreseeable future**. However, that interim assignment leaves open the possibility of a return to the Status quo – an operating model (split between IT policy and service) that has been ineffective, has been abandoned in Iowa (the state Oregon emulated in its implementation of Entrepreneurial management) and has led to a crisis of confidence and trust that now must be addressed.

- It’s clear that the State CIO - by training, education and experience is the most qualified Governor’s appointee to lead and supervise the both Enterprise IT policy and Enterprise IT service delivery.
- The Executive Branch, through its actions over the past year appears to have recognized that fact, as well.
- I believe that the interim assignment of responsibilities for both Enterprise IT operations and policy should be made permanent.

Solution – HB3099

HB 3258 was a start... a beginning.

HB 3099 is needed to bring long term clarity, certainty and stability to this extremely important area of state government operations.

The transfer of IT related duties, functions, powers and responsibilities called for by HB 3099 As Introduced is the next logical step in realigning and confirming that....

The State Chief Information Officer is the position and office that should be made RESPONSIBLE and ACCOUNTABLE for BOTH

- Statewide IT planning, acquisition, oversight, rulemaking, policy adoption and standards setting; AND
- Statewide IT operations and service delivery across the Executive Branch of Oregon State Government.