

## LEGISLATIVE BILL 880

Approved by the Governor April 10, 2012

Introduced by Pahls, 31.

FOR AN ACT relating to the Records Management Act; to amend sections 84-1201, 84-1203, 84-1204, 84-1205.03, 84-1205.05, 84-1206, 84-1207, and 84-1219, Reissue Revised Statutes of Nebraska; to provide duties relating to reducing costs and adopting modern methods of records management as prescribed; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 84-1205.04, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 84-1201, Reissue Revised Statutes of Nebraska, is amended to read:

84-1201 The Legislature declares that:

(1) Programs for the systematic and centrally correlated management of state and local records will promote efficiency and economy in the day-to-day record-keeping activities of state and local governments and will facilitate and expedite governmental operations;

(2) Records containing information essential to the operations of government, and to the protection of the rights and interests of persons, must be safeguarded against the destructive effects of all forms of disaster and must be available as needed; wherefore it is necessary to adopt special provisions for the selection and preservation of essential state and local records, thereby insuring the protection and availability of such information;

(3) The increasing availability and use of computers is creating a growing demand for electronic access to public records, and agencies should use new technology to enhance public access to public records and to reduce costs in maintaining, preserving, or retaining public records;

(4) There must be public accountability in the process of collecting, sharing, disseminating, and accessing public records;

(5) The Legislature has oversight responsibility for the process of collecting, sharing, disseminating, and providing access, including electronic access, to public records and establishing fees for disseminating and providing access;

(6) Several state agencies, individually and collectively, are providing electronic access to public records through various means, including gateways; and

(7) There is a need for a uniform policy regarding the management, operation, and oversight of systems providing electronic access to public records.

Sec. 2. Section 84-1203, Reissue Revised Statutes of Nebraska, is amended to read:

84-1203 The Secretary of State is hereby designated the State Records Administrator. ~~\_\_\_\_\_ hereinafter called the administrator.~~ The administrator shall establish and administer, within and for state and local agencies, (1) a records management program which will apply efficient, cost-effective, modern, and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of state and local records, (2) a program for the selection and preservation of essential state and local records, (3) establish and maintain a depository for the storage and service of state records, and advise, assist, and govern by rules and regulations the establishment of similar programs in local political subdivisions in the state, and (4) establish and maintain a central microfilm agency for state records and advise, assist, and govern by rules and regulations the establishment of similar programs in state agencies and local political subdivisions in the State of Nebraska.

Sec. 3. Section 84-1204, Reissue Revised Statutes of Nebraska, is amended to read:

84-1204 (1) The State Records Board is hereby established. The board shall:

(a) Advise and assist the administrator in the performance of his or her duties under the Records Management Act;

(b) Provide electronic access to public records through a gateway;

(c) Develop and maintain a gateway or electronic network for accessing public records;

(d) Provide appropriate oversight of a network manager;

(e) Approve reasonable fees for electronic access to public records

pursuant to sections 84-1205.02 and 84-1205.03; ~~and submit contracts for public bidding pursuant to section 84-1205.04;~~

(f) Have the authority to enter into or renegotiate agreements regarding the management of the network in order to provide citizens with electronic access to public records;

(g) Explore ways and means of reducing the costs of agencies to manage record retention, expanding the amount and kind of public records provided through the gateway or electronic network, increasing the utility of the public records provided and the form in which the public records are provided, expanding the base of users who access public records electronically, and, if appropriate, implementing changes necessary for such purposes;

(h) Explore technological ways and means of improving citizen and business access to public records and, if appropriate, implement the technological improvements;

(i) Explore options of expanding the gateway or electronic network and its services to citizens and businesses;

(j) Have the authority to grant funds to political subdivisions for the development of programs and technology to improve electronic access to public records by citizens and businesses consistent with the act; and

(k) Perform such other functions and duties as the act requires.

(2) In addition to the administrator, the board shall consist of:

(a) The Governor or his or her designee;

(b) The Attorney General or his or her designee;

(c) The Auditor of Public Accounts or his or her designee;

(d) The State Treasurer or his or her designee;

(e) The Director of Administrative Services or his or her designee;

(f) Three representatives appointed by the Governor to be broadly representative of banking, insurance, and law groups; and

(g) Three representatives appointed by the Governor to be broadly representative of libraries, the general public, and professional members of the Nebraska news media.

(3) The administrator shall be chairperson of the board. Upon call by the administrator, the board shall convene periodically in accordance with its rules and regulations or upon call by the administrator.

(4) Six members of the board shall constitute a quorum, and the affirmative vote of six members shall be necessary for any action to be taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(5) The representatives appointed by the Governor shall serve staggered three-year terms as the Governor designates and may be appointed for one additional term. Members of the board shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 4. Section 84-1205.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.03 (1) Any state agency other than the courts or the Legislature desiring to enter into an agreement to or otherwise provide electronic access to public records through a gateway for a fee shall make a written request for approval to the board. The request shall include (a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement, (b) the public records which are the subject of the contract or proposed electronic access fee, (c) the anticipated or actual timeline for implementation, and (d) any security provisions for the protection of confidential or sensitive records. The board shall take action on such request in accordance with section 84-1205.02 and after a public hearing within thirty days after receipt. The board may request a presentation or such other information as it deems necessary from the requesting state agency.

(2) A state agency other than the courts or the Legislature may charge a fee for electronic access to public records without the board's approval for a one-time sale in a unique format. The purchaser may object to the fee in writing to the board, and the one-time fee shall then be subject to approval by the board according to the procedures and guidelines established in sections 84-1205 to ~~84-1205.04~~, 84-1205.03.

(3) Courts or the Legislature providing electronic access to public records through a gateway for a fee shall make a written report. The report shall be filed with the State Records Board by the State Court Administrator for the courts and the chairperson of the Executive Board of the Legislative Council for the Legislature. The report shall include (a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement, (b) the public records which are the

subject of the contract or proposed electronic access fee, (c) the anticipated or actual timeline for implementation, and (d) any security provisions for the protection of confidential or sensitive records. The State Records Board may request a presentation or such other information as it deems necessary. The courts and the Legislature shall take into consideration any recommendation made by the State Records Board with respect to such fees.

(4) Courts and the Legislature may charge a fee for electronic access to public records for a one-time sale in a unique format without providing a report to the board as required under subsection (3) of this section.

Sec. 5. Section 84-1205.05, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.05 The board shall provide quarterly reports to the Executive Board of the Legislative Council and Nebraska Information Technology Commission on its activities pursuant to sections 84-1205 to ~~84-1205.04-84-1205.03.~~

Sec. 6. Section 84-1206, Reissue Revised Statutes of Nebraska, is amended to read:

84-1206 (1) With due regard for the functions of the agencies concerned, and with such guidance and assistance from the board as may be required, the administrator shall:

(a) Establish standards, procedures, and techniques for the effective management of public records;

(b) Make continuing surveys of paperwork, microfilm, and electronic storage operations, and recommend improvements in current records management practices, including but not limited to the economical use of and cost reductions in space, equipment, and supplies employed in creating, maintaining, storing, preserving, and servicing records;

(c) Establish standards for the preparation of schedules providing for the retention of records of continuing value, and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal, historical, or fiscal value to warrant their further retention; and

(d) Obtain from the agencies concerned such reports and other data as are required for the proper administration of the records management program including organizational charts of agencies concerned.

(2) The administrator shall establish standards for designating essential records, shall assist agencies in identifying essential records, and shall guide them in the establishment of programs for the preservation of essential records.

(3) The administrator may advise and assist members of the Legislature and other officials in the maintenance and disposition of their personal or political papers of public interest and may provide such other services as are available to state and local agencies, within the limitation of available funds.

Sec. 7. Section 84-1207, Reissue Revised Statutes of Nebraska, is amended to read:

84-1207 In accordance with general law, and with such rules and regulations as shall be promulgated by the administrator and the board as provided in section 84-1216, such head of any state agency, department, board, council, legislative or judicial branch, and political subdivision shall:

(1) Establish and maintain an active, continuing program for the efficient, cost-effective, modern, and economical management of the record-keeping activities of the agency;

(2) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency, designed to furnish information to protect the legal and financial rights of the state, and of persons directly affected by the agency's activities;

(3) Make, and submit to the administrator, schedules proposing the length of time each record series warrants retention for administrative, legal, historical, or fiscal purposes, after it has been made in or received by the agency, and lists of records in the custody or under the control of the agency which are not needed in the transaction of current business, and do not possess sufficient administrative, legal, historical, or fiscal value to warrant their further retention;

(4) Inventory the records in the custody or under the control of the agency, and submit to the administrator a report thereon, containing such data as the administrator shall prescribe, and including his or her recommendations as to which if any of such records, if any, should be determined to be essential records. He or she shall review his the inventory and report periodically and, as necessary, shall revise his the report so that it is current, accurate, and complete; and

(5) Comply with the rules, regulations, standards, and procedures issued and set up by the administrator and the board, and cooperate in the conduct of surveys made by the administrator pursuant to sections 84-1201 to 84-1226; ~~and-~~

(6) Strive to reduce the costs to manage record retention.

Sec. 8. Section 84-1219, Reissue Revised Statutes of Nebraska, is amended to read:

84-1219 The administrator shall prepare a biennial report on the status of programs established by ~~him~~ the administrator as provided in sections 84-1201 to 84-1226, and on the progress made during the preceding biennium in implementing and effectuating such programs and in reducing costs. Copies of this report shall be furnished the Governor, the Speaker of the Legislature, and such other officials and agencies as the Governor or the board shall direct.

Sec. 9. Original sections 84-1201, 84-1203, 84-1204, 84-1205.03, 84-1205.05, 84-1206, 84-1207, and 84-1219, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 10. The following section is outright repealed: Section 84-1205.04, Reissue Revised Statutes of Nebraska.