

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 SECOND SESSION
LEGISLATIVE BILL 880
 Final Reading

Introduced by Pahls, 31.

Read first time January 09, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Records Management Act; to amend sections
 2 84-1201, 84-1203, 84-1204, 84-1205.03, 84-1205.05,
 3 84-1206, 84-1207, and 84-1219, Reissue Revised Statutes
 4 of Nebraska; to provide duties relating to reducing costs
 5 and adopting modern methods of records management as
 6 prescribed; to eliminate obsolete provisions; to
 7 harmonize provisions; to repeal the original sections;
 8 and to outright repeal section 84-1205.04, Reissue
 9 Revised Statutes of Nebraska.

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

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

3 84-1201 The Legislature declares that:

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

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

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

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

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

1 for disseminating and providing access;

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

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

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

10 84-1203 The Secretary of State is hereby designated the
11 State Records Administrator, ~~hereinafter called the administrator.~~
12 The administrator shall establish and administer, within and for
13 state and local agencies, (1) a records management program which will
14 apply efficient, cost-effective, modern, and economical methods to
15 the creation, utilization, maintenance, retention, preservation, and
16 disposal of state and local records, (2) a program for the selection
17 and preservation of essential state and local records, (3) establish
18 and maintain a depository for the storage and service of state
19 records, and advise, assist, and govern by rules and regulations the
20 establishment of similar programs in local political subdivisions in
21 the state, and (4) establish and maintain a central microfilm agency
22 for state records and advise, assist, and govern by rules and
23 regulations the establishment of similar programs in state agencies
24 and local political subdivisions in the State of Nebraska.

25 Sec. 3. Section 84-1204, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-1204 (1) The State Records Board is hereby
3 established. The board shall:

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

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

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

10 (d) Provide appropriate oversight of a network manager;

11 (e) Approve reasonable fees for electronic access to
12 public records pursuant to sections 84-1205.02 and 84-1205.03; ~~and~~
13 ~~submit contracts for public bidding pursuant to section 84-1205.04;~~

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

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

24 (h) Explore technological ways and means of improving
25 citizen and business access to public records and, if appropriate,

1 implement the technological improvements;

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

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

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

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

12 (a) The Governor or his or her designee;

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

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

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

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

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

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

24 (3) The administrator shall be chairperson of the board.

25 Upon call by the administrator, the board shall convene periodically

1 in accordance with its rules and regulations or upon call by the
2 administrator.

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

8 (5) The representatives appointed by the Governor shall
9 serve staggered three-year terms as the Governor designates and may
10 be appointed for one additional term. Members of the board shall be
11 reimbursed for actual and necessary expenses as provided in sections
12 81-1174 to 81-1177.

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

15 84-1205.03 (1) Any state agency other than the courts or
16 the Legislature desiring to enter into an agreement to or otherwise
17 provide electronic access to public records through a gateway for a
18 fee shall make a written request for approval to the board. The
19 request shall include (a) a copy of the contract under consideration
20 if the electronic access is to be provided through a contractual
21 arrangement, (b) the public records which are the subject of the
22 contract or proposed electronic access fee, (c) the anticipated or
23 actual timeline for implementation, and (d) any security provisions
24 for the protection of confidential or sensitive records. The board
25 shall take action on such request in accordance with section

1 84-1205.02 and after a public hearing within thirty days after
2 receipt. The board may request a presentation or such other
3 information as it deems necessary from the requesting state agency.

4 (2) A state agency other than the courts or the
5 Legislature may charge a fee for electronic access to public records
6 without the board's approval for a one-time sale in a unique format.
7 The purchaser may object to the fee in writing to the board, and the
8 one-time fee shall then be subject to approval by the board according
9 to the procedures and guidelines established in sections 84-1205 to
10 ~~84-1205.04.~~ 84-1205.03.

11 (3) Courts or the Legislature providing electronic access
12 to public records through a gateway for a fee shall make a written
13 report. The report shall be filed with the State Records Board by the
14 State Court Administrator for the courts and the chairperson of the
15 Executive Board of the Legislative Council for the Legislature. The
16 report shall include (a) a copy of the contract under consideration
17 if the electronic access is to be provided through a contractual
18 arrangement, (b) the public records which are the subject of the
19 contract or proposed electronic access fee, (c) the anticipated or
20 actual timeline for implementation, and (d) any security provisions
21 for the protection of confidential or sensitive records. The State
22 Records Board may request a presentation or such other information as
23 it deems necessary. The courts and the Legislature shall take into
24 consideration any recommendation made by the State Records Board with
25 respect to such fees.

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

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

7 84-1205.05 The board shall provide quarterly reports to
8 the Executive Board of the Legislative Council and Nebraska
9 Information Technology Commission on its activities pursuant to
10 sections 84-1205 to ~~84-1205.04.~~ 84-1205.03.

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

13 84-1206 (1) With due regard for the functions of the
14 agencies concerned, and with such guidance and assistance from the
15 board as may be required, the administrator shall:

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

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

24 (c) Establish standards for the preparation of schedules
25 providing for the retention of records of continuing value, and for

1 the prompt and orderly disposal of records no longer possessing
2 sufficient administrative, legal, historical, or fiscal value to
3 warrant their further retention; and

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

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

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

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

19 84-1207 In accordance with general law, and with such
20 rules and regulations as shall be promulgated by the administrator
21 and the board as provided in section 84-1216, such head of any state
22 agency, department, board, council, legislative or judicial branch,
23 and political subdivision shall:

24 (1) Establish and maintain an active, continuing program
25 for the efficient, cost-effective, modern, and economical management

1 of the record-keeping activities of the agency;

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

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

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

24 (5) Comply with the rules, regulations, standards, and
25 procedures issued and set up by the administrator and the board, and

1 cooperate in the conduct of surveys made by the administrator
2 pursuant to sections 84-1201 to 84-1226; and -

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

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

7 84-1219 The administrator shall prepare a biennial report
8 on the status of programs established by ~~him~~the administrator as
9 provided in sections 84-1201 to 84-1226, and on the progress made
10 during the preceding biennium in implementing and effectuating such
11 programs and in reducing costs. Copies of this report shall be
12 furnished the Governor, the Speaker of the Legislature, and such
13 other officials and agencies as the Governor or the board shall
14 direct.

15 Sec. 9. Original sections 84-1201, 84-1203, 84-1204,
16 84-1205.03, 84-1205.05, 84-1206, 84-1207, and 84-1219, Reissue
17 Revised Statutes of Nebraska, are repealed.

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