

AMENDED IN SENATE MAY 12, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 938

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Anderson, Berryhill, Calderon, Cannella, Corbett, De León, Evans, Hernandez, Padilla, Strickland, Wyland, and Yee)

March 21, 2011

An act to amend Sections 14745, 14746, 14750, 14755, 14756, 14765, 14766, and 14767 of, and to repeal Sections 14760 and 14768 of, the Government Code, relating to state records. An act to amend and renumber the headings of Article 6 (commencing with Section 14765) and Article 7 (commencing with Section 14769) of Chapter 5 of, to add Article 7 (commencing with Section 14769.5) to Chapter 5 of, to repeal Section 14768 of, to repeal Article 5 (commencing with Section 14760) of Chapter 5 of, and to repeal and add Chapter 5 (commencing with Section 14740) of, Part 5.5 of Division 3 of Title 2 of, the Government Code, relating to state records.

LEGISLATIVE COUNSEL'S DIGEST

SB 938, as amended, Committee on Governmental Organization. State records.

Existing law requires the Director of General Services to establish and administer in the executive branch of state government a records management program. *Existing law requires the director to report annually to the Governor on the status and progress of that program.*

This bill would repeal the requirement that the director submit a report to the Governor.

This bill would, *commencing January 1, 2014*, transfer duties of the director that are related to records management to the ~~California Technology Agency~~ *Secretary of State*. This bill would also transfer persons employed by the Department of General Services in the California Records and Information Management Program, and all equipment and records in the State Records Center in the Department of General Services, to the ~~California Technology Agency~~ *Secretary of State*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 14760) of
 2 Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
 3 Code is repealed.

4 SEC. 2. The heading of Article 6 (commencing with Section
 5 14765) of Chapter 5 of Part 5.5 of Division 3 of Title 2 of the
 6 Government Code is amended and renumbered to read:

7
 8 Article 6.5. Record Centers
 9

10 SEC. 3. Section 14768 of the Government Code is repealed.

11 ~~14768. This article shall become operative on January 1, 1967.~~

12 SEC. 4. The heading of Article 7 (commencing with Section
 13 14769) of Chapter 5 of Part 5.5 of Division 3 of Title 2 of the
 14 Government Code is amended and renumbered to read:

15
 16 Article 7.6. Restoration of Records Destroyed by Public
 17 Calamity
 18

19 SEC. 5. Article 7 (commencing with Section 14769.5) is added
 20 to Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government
 21 Code, to read:

22
 23 Article 7. Repeal
 24

25 14769.5. This chapter shall remain in effect only until January
 26 1, 2014, and as of that date is repealed, unless a later enacted

1 *statute, that is enacted before January 1, 2014, deletes or extends*
2 *that date.*

3 *SEC. 6. Chapter 5 (commencing with Section 14740) is added*
4 *to Part 5.5 of Division 3 of Title 2 of the Government Code, to*
5 *read:*

6
7 *CHAPTER 5. STATE RECORDS*

8
9 *Article 1. General*

10
11 *14740. This chapter shall be known and may be cited as the*
12 *“State Records Management Act.”*

13 *14741. As used in this chapter “record” or “records” means*
14 *all papers, maps, exhibits, magnetic or paper tapes, photographic*
15 *films and prints, punched cards, and other documents produced,*
16 *received, owned or used by an agency, regardless of physical form*
17 *or characteristics. Library and museum materials made or*
18 *acquired and preserved solely for reference or exhibition purposes,*
19 *and stocks of publications and of processed documents are not*
20 *included within the definition of the term “record” or “records”*
21 *as used in this chapter.*

22 *14741.1. As used in this chapter, “public use forms” means*
23 *those forms used by the state to obtain or to solicit facts, opinions,*
24 *or other information from the public or private citizens,*
25 *partnerships, corporations, organizations, business trusts, or any*
26 *nongovernmental entity or legal representative thereof.*

27
28 *Article 2. Administration of State Records*

29
30 *14745. The Secretary of State shall establish and administer*
31 *in the executive branch of state government a records management*
32 *program, that will apply efficient and economical management*
33 *methods to the creation, utilization, maintenance, retention,*
34 *preservation, and disposal of state records.*

35 *14746. The duties of the Secretary of State shall include, but*
36 *are not limited to, all of the following:*

37 *(a) Establishing standards, procedures, and techniques for*
38 *effective management of records.*

1 (b) Providing appropriate protection for records designated by
2 state agencies as essential to the functioning of state government
3 in the event of a major disaster.

4 (c) Obtaining from agencies reports required for the
5 administration of the program.

6

7

Article 3. Duties of Agency Heads

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9 14750. The head of each agency shall:

10 (a) Establish and maintain an active, continuing program for
11 the economical and efficient management of the records and
12 information collection practices of the agency. The program shall
13 ensure that the information needed by the agency shall be obtained
14 with a minimum burden upon individuals and businesses, especially
15 small business enterprises and others required to furnish the
16 information. Unnecessary duplication of efforts in obtaining
17 information shall be eliminated as rapidly as practical. Information
18 collected by the agency shall, as far as is expedient, be collected
19 and tabulated in a manner that maximizes the usefulness of the
20 information to other state agencies and the public.

21 (b) Determine, with the concurrence of the Secretary of State,
22 records essential to the functioning of state government in the
23 event of a major disaster.

24 (c) Comply with the rules, regulations, standards and procedures
25 issued by the Secretary of State.

26

27

Article 4. Disposal of Records

28

29 14755. (a) A record shall not be destroyed or otherwise
30 disposed of by any agency of the state, unless it is determined by
31 the Secretary of State that the record has no further administrative,
32 legal, or fiscal value and the Secretary of State has determined
33 that the record is inappropriate for preservation in the State
34 Archives.

35 (b) The Secretary of State shall not authorize the destruction of
36 any record subject to audit until he or she has determined that the
37 audit has been performed.

38 (c) The Secretary of State shall not authorize the destruction of
39 all or any part of an agency rulemaking file subject to Section
40 11347.3.

1 14756. *The public records of any state agency may be*
2 *microfilmed, electronically data imaged, or otherwise*
3 *photographically reproduced and certified upon the written*
4 *authorization of the head of the agency. The microfilming,*
5 *electronic data imaging, or photographic reproduction shall be*
6 *made in compliance with the minimum standards or guidelines,*
7 *or both, as recommended by the American National Standards*
8 *Institute or the Association for Information and Image*
9 *Management, and as adopted by the Secretary of State, for*
10 *recording of permanent records or nonpermanent records.*

11 *The certification of each reproduction or set of reproductions*
12 *shall be in accordance with the standards, or have the approval,*
13 *of the Attorney General. The certification shall contain a statement*
14 *of the identity, description, and disposition or location of the*
15 *records reproduced, the date, reason, and authorization for the*
16 *reproduction, and other information that the Attorney General*
17 *requires.*

18 *The certified reproductions shall be deemed to be original public*
19 *records for all purposes, including introduction in courts of law*
20 *and state agencies.*

21

22 *Article 5. Record Centers*

23

24 14765. *All persons, other than temporary employees, serving*
25 *in the state civil service and employed by the Department of*
26 *General Services in the California Records and Information*
27 *Management Program and the State Records Center, shall remain*
28 *in the state civil service and are hereby transferred to the Secretary*
29 *of State. The status, positions, and rights of those persons shall*
30 *not be affected by their transfer and shall continue to be retained*
31 *by them pursuant to the State Civil Service Act.*

32 14766. *All equipment and records in the State Records Center*
33 *in the Department of General Services are transferred to the*
34 *Secretary of State.*

35 14767. *The Secretary of State shall establish, maintain and*
36 *operate record centers for the storage, processing, and servicing*
37 *of records for state agencies pending their deposit with the*
38 *Archives of the State of California or their disposition in any other*
39 *manner authorized by law.*

1 Article 6. Restoration of Records Destroyed by Public Calamity

2
3 14769. (a) As used in this section:

4 (1) "Acquire" includes acquisition by gift, purchase, lease,
5 eminent domain, or otherwise.

6 (2) "Public record plant" means the plant, or any part thereof,
7 or any record therein, of any person engaged in the business of
8 searching or publishing public records or insuring or guaranteeing
9 titles to real property, including copies of public records and
10 abstracts or memoranda taken from public records, which is owned
11 by or in the possession of that person or which is used by that
12 person in his or her business.

13 (b) If public records of any state agency have been lost or
14 destroyed by conflagration or other public calamity, the Secretary
15 of State may acquire the right to reproduce any portion of a public
16 record plant as is necessary for the purpose of restoring or
17 replacing the records or their substance.

18
19 Article 7. Operative Date

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21 14769.5. This chapter shall become operative on January 1,
22 2014.

23 ~~SECTION 1. Section 14745 of the Government Code is~~
24 ~~amended to read:~~

25 ~~14745. The California Technology Agency shall establish and~~
26 ~~administer in the executive branch of state government a records~~
27 ~~management program, which will apply efficient and economical~~
28 ~~management methods to the creation, utilization, maintenance,~~
29 ~~retention, preservation, and disposal of state records.~~

30 ~~SEC. 2. Section 14746 of the Government Code is amended~~
31 ~~to read:~~

32 ~~14746. The duties of the California Technology Agency shall~~
33 ~~include, but not be limited to, the following:~~

34 ~~(a) Establishing standards, procedures, and techniques for~~
35 ~~effective management of records.~~

36 ~~(b) Providing appropriate protection for records designated by~~
37 ~~state agencies, as essential to the functioning of state government~~
38 ~~in the event of a major disaster.~~

39 ~~(c) Obtaining from agencies reports required for the~~
40 ~~administration of the program.~~

1 ~~SEC. 3. Section 14750 of the Government Code is amended~~
2 ~~to read:~~

3 ~~14750. The head of each agency shall:~~

4 ~~(a) Establish and maintain an active, continuing program for~~
5 ~~the economical and efficient management of the records and~~
6 ~~information collection practices of the agency. The program shall~~
7 ~~ensure that the information needed by the agency shall be obtained~~
8 ~~with a minimum burden upon individuals and businesses, especially~~
9 ~~small business enterprises and others required to furnish the~~
10 ~~information. Unnecessary duplication of efforts in obtaining~~
11 ~~information shall be eliminated as rapidly as practical. Information~~
12 ~~collected by the agency shall, as far as is expedient, be collected~~
13 ~~and tabulated in a manner that maximizes the usefulness of the~~
14 ~~information to other state agencies and the public.~~

15 ~~(b) Determine, with the concurrence of the California~~
16 ~~Technology Agency, records essential to the functioning of state~~
17 ~~government in the event of a major disaster.~~

18 ~~(c) Comply with the rules, regulations, standards and procedures~~
19 ~~issued by the California Technology Agency.~~

20 ~~SEC. 4. Section 14755 of the Government Code is amended~~
21 ~~to read:~~

22 ~~14755. (a) No record shall be destroyed or otherwise disposed~~
23 ~~of by any agency of the state, unless it is determined by the~~
24 ~~California Technology Agency that the record has no further~~
25 ~~administrative, legal, or fiscal value and the Secretary of State has~~
26 ~~determined that the record is inappropriate for preservation in the~~
27 ~~State Archives.~~

28 ~~(b) The California Technology Agency shall not authorize the~~
29 ~~destruction of any record subject to audit until he or she has~~
30 ~~determined that the audit has been performed.~~

31 ~~(c) The California Technology Agency shall not authorize the~~
32 ~~destruction of all or any part of an agency rulemaking file subject~~
33 ~~to Section 11347.3.~~

34 ~~SEC. 5. Section 14756 of the Government Code is amended~~
35 ~~to read:~~

36 ~~14756. The public records of any state agency may be~~
37 ~~microfilmed, electronically data imaged, or otherwise~~
38 ~~photographically reproduced and certified upon the written~~
39 ~~authorization of the head of the agency. The microfilming,~~
40 ~~electronic data imaging, or photographic reproduction shall be~~

1 made in compliance with the minimum standards or guidelines,
 2 or both, as recommended by the American National Standards
 3 Institute or the Association for Information and Image
 4 Management, and as adopted by the California Technology
 5 Agency, in consultation with the Secretary of State, for recording
 6 of permanent records or nonpermanent records.

7 The certification of each reproduction or set of reproductions
 8 shall be in accordance with the standards, or have the approval, of
 9 the Attorney General. The certification shall contain a statement
 10 of the identity, description, and disposition or location of the
 11 records reproduced, the date, reason, and authorization for the
 12 reproduction, and other information that the Attorney General
 13 requires.

14 The certified reproductions shall be deemed to be original public
 15 records for all purposes, including introduction in courts of law
 16 and state agencies.

17 ~~SEC. 6. Section 14760 of the Government Code is repealed.~~

18 ~~SEC. 7. Section 14765 of the Government Code is amended~~
 19 ~~to read:~~

20 ~~14765. All persons, other than temporary employees, serving~~
 21 ~~in the state civil service and employed by the Department of~~
 22 ~~General Services in the California Records and Information~~
 23 ~~Management Program and the State Records Center, shall remain~~
 24 ~~in the state civil service and are hereby transferred to the California~~
 25 ~~Technology Agency. The status, positions, and rights of such~~
 26 ~~persons shall not be affected by their transfer and shall continue~~
 27 ~~to be retained by them pursuant to the State Civil Service Act.~~

28 ~~SEC. 8. Section 14766 of the Government Code is amended~~
 29 ~~to read:~~

30 ~~14766. All equipment and records in the State Records Center~~
 31 ~~in the Department of General Services are transferred to the~~
 32 ~~California Technology Agency.~~

33 ~~SEC. 9. Section 14767 of the Government Code is amended~~
 34 ~~to read:~~

35 ~~14767. The California Technology Agency shall establish,~~
 36 ~~maintain, and operate record centers for the storage, processing,~~
 37 ~~and servicing of records for state agencies pending their deposit~~
 38 ~~with the Archives of the State of California or their disposition in~~
 39 ~~any other manner authorized by law.~~

1 ~~SEC. 10.—Section 14768 of the Government Code is repealed.~~

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