

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 479**

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**Introduced by Senator Block**

February 21, 2013

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An act to amend Sections 6204, 12153, 12224, 12225, 12227, ~~and 12228, 12229, 12230, 12231, 12232, 12233, 12236, 14740, 14745, and 14746 of~~, to add Article 7 (commencing with Section 12270) to Chapter 3 of Part 2 of Division 3 of Title 2 of, to repeal Sections 12234 and 12235 of, and to repeal Article 3 (commencing with Section 14750), Article 4 (commencing with Section 14755), Article 6 (commencing with Section 14765), and Article 7 (commencing with Section 14769) of, Chapter 5 of Part 5.5 of Division 3 of Title 2 of, the Government Code, and to amend Section 135 of the Labor Code, relating to state ~~government~~ records.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Block. ~~Keeper of the Archives: name change.~~  
*State government: Secretary of State: duties.*

Existing law requires the Secretary of State to appoint a competent person to the position of Keeper of the Archives. Existing law specifies that the Keeper of the Archives is responsible for the preservation and indexing of material deposited in the State Archives, and shall make the material readily available for use.

This bill would change the name of the Keeper of the Archives to the Chief of Archives.

*Existing law, the State Records Management Act, provides for the Department of General Services to manage state records, as specified.*

*This bill would provide that the Secretary of State would manage state records and that the Department of General Services would store state records, as specified.*

*Existing law provides that the Workers’ Compensation Appeals Board may, with the approval of the Department of Finance, destroy or otherwise dispose of a file kept by it in connection with a proceeding regarding workers’ compensation and insurance, as provided.*

*This bill would instead provide that the Workers’ Compensation Appeals Board may, with the approval of the Secretary of State, destroy or otherwise dispose of a file kept by it in connection with a proceeding.*

This bill would also make technical, nonsubstantive, and conforming changes to these provisions.

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. Section 6204 of the Government Code is amended  
 2 to read:  
 3 6204. (a) For purposes of this chapter, the following definitions  
 4 shall apply:  
 5 (1) “Archivist” means the Chief of Archives, as specified in  
 6 Section 12227.  
 7 (2) “Record” has the same meaning as “public records” is  
 8 defined in subdivision (e) of Section 6252, and includes, but is not  
 9 limited to, any writing containing information relating to the  
 10 conduct of the public’s business prepared, owned, used, or retained  
 11 by a state or local agency regardless of physical form or  
 12 characteristics.  
 13 (3) “Secretary” means the Secretary of State.  
 14 (b) Whenever the secretary, in consultation with the archivist,  
 15 has reasonable grounds to believe that a record belonging to the  
 16 state or a local agency is in the possession of a person, organization,  
 17 or institution not authorized by law to possess ~~those records that~~  
 18 *record*, the secretary may issue a written notice demanding that  
 19 person, organization, or institution to do either of the following  
 20 within 20 calendar days of receiving the notice:  
 21 (1) Return the record to the appropriate state or local agency.  
 22 (2) Respond in writing and declare why the record does not  
 23 belong to the state or a local agency.

1 (c) The notice and demand issued pursuant to subdivision (b)  
2 shall identify the record claimed to belong to the state or local  
3 agency with reasonable specificity, and shall state that the secretary  
4 is authorized to take legal action to recover the record if the person,  
5 organization, or institution fails to respond in writing within the  
6 required time or does not adequately demonstrate that the record  
7 does not belong to the state or a local agency.

8 (d) The secretary shall send the notice and demand specified in  
9 subdivision (b) by certified or registered mail, return receipt  
10 requested.

11 (e) When a record is returned pursuant to paragraph (1) of  
12 subdivision (b), upon the request of the person, organization, or  
13 institution that returned the record, the secretary or a local agency  
14 that receives the record shall issue to that person, organization, or  
15 institution a copy or digital image of the record, which shall be  
16 certified as a true copy of the record that was returned to the state  
17 or local agency, and dated on the same day the record was returned.

18 SEC. 2. Section 12153 of the Government Code is amended  
19 to read:

20 12153. The Secretary of State shall appoint a competent person  
21 to the position of Chief of Archives.

22 In case of his or her absence or inability to perform the duties  
23 of his or her position, the Secretary of State shall designate some  
24 other competent person to act in his or her place.

25 SEC. 3. Section 12224 of the Government Code is amended to  
26 read:

27 12224. The Secretary of State may receive into the archives  
28 any item that he *or she* deems to be of historical value ~~and shall~~  
29 ~~receive into the archives any other item from a state agency if~~  
30 ~~directed to do so by the Department of General Services.~~

31 SEC. 4. Section 12225 of the Government Code is amended to  
32 read:

33 12225. ~~With the approval of the Department of General~~  
34 ~~Services, the~~ The Secretary of State may at any time return to the  
35 state agency from which it was received any item in the archives  
36 which he *or she* does not deem to be of historical value.

37 ~~SEC. 3.~~

38 SEC. 5. Section 12227 of the Government Code is amended  
39 to read:

1 12227. The Chief of Archives is responsible for the preservation  
2 and indexing of material deposited in the State Archives, and shall  
3 make the material readily available for use.

4 ~~SEC. 4.~~

5 SEC. 6. Section 12228 of the Government Code is amended  
6 to read:

7 12228. The Chief of Archives shall give an appropriate receipt  
8 for all material received by him or her as a part of the archives.

9 SEC. 7. *Section 12229 of the Government Code is amended to*  
10 *read:*

11 12229. The Secretary of State may maintain any item in an  
12 active file in his *or her* office for such time as he *or she* deems  
13 proper before transferring it to the archives.

14 SEC. 8. *Section 12230 of the Government Code is amended to*  
15 *read:*

16 12230. The Secretary of State shall establish a Document  
17 Preservation Shop and an Indexing Section to facilitate the  
18 preservation and indexing of the archives. ~~He shall also prepare~~  
19 ~~exhibitions of documentary materials from the archives to be~~  
20 ~~displayed in the State Capitol Building.~~

21 SEC. 9. *Section 12231 of the Government Code is amended to*  
22 *read:*

23 12231. In carrying out the provisions of this article, the  
24 Secretary of State shall consult with and give consideration to the  
25 recommendations of the ~~California Heritage Preservation~~  
26 ~~Commission~~ *California Historical Records Advisory Board*, which  
27 for that purpose shall serve in an advisory capacity to the Secretary  
28 of State.

29 SEC. 10. *Section 12232 of the Government Code is amended*  
30 *to read:*

31 12232. The Secretary of State shall utilize the ~~California State~~  
32 ~~Library~~ *California Historical Records Advisory Board* to advise,  
33 encourage, and coordinate the activities of the county historical  
34 records commissions, either designated or appointed by the county  
35 boards of supervisors pursuant to Section 26490. The chairman or  
36 his or her designee of each county historical records commission  
37 may attend an annual meeting ~~with the California State Library~~,  
38 at state expense, to receive advice in the preservation of local  
39 government archives and public library collections of historical  
40 materials.

1     *SEC. 11. Section 12233 of the Government Code is amended*  
2 *to read:*

3     12233. (a) ~~The Secretary of State shall conduct under the~~  
4 ~~administration of the State Archives a regular governmental history~~  
5 ~~documentation program to provide through the use of oral history~~  
6 ~~a continuing documentation of state policy development as~~  
7 ~~reflected in California’s legislative and executive history. The~~  
8 ~~secretary may contract with oral history units affiliated with public~~  
9 ~~or private nonprofit colleges, universities, or historical societies~~  
10 ~~located in California to perform selected program activities. The~~  
11 ~~secretary shall prescribe professional standards for the~~  
12 ~~accomplishment and governance of the program.~~

13     ~~(b) The Secretary of State shall submit annually a report to the~~  
14 ~~Legislature on the program conducted pursuant to this section.~~

15     *SEC. 12. Section 12234 of the Government Code is repealed.*

16     ~~12234. The secretary shall conduct a feasibility study to assess~~  
17 ~~the needs, costs, and appropriate location for a new facility or~~  
18 ~~conversion of an existing facility, or both, to house the collections~~  
19 ~~and operations of the California State Archives for at least the next~~  
20 ~~50 years. The study shall take into consideration the~~  
21 ~~appropriateness of combining compatible needs of other agencies~~  
22 ~~to allow for cost-effective construction or conversion, or both, of~~  
23 ~~facilities.~~

24     *SEC. 13. Section 12235 of the Government Code is repealed.*

25     ~~12235. (a) The Director of General Services, as agent for the~~  
26 ~~Secretary of State, shall construct on Site 7, Capital Area Plan, a~~  
27 ~~Secretary of State and State Archives Building Complex, parking~~  
28 ~~facilities, and any other improvements, betterments, and facilities~~  
29 ~~related thereto, for the primary use of the Secretary of State and~~  
30 ~~State Archives as outlined in the study report required by Section~~  
31 ~~12234.~~

32     ~~(b) Revenue bonds, negotiable notes, and negotiable bond~~  
33 ~~anticipation notes may be issued by the State Public Works Board~~  
34 ~~pursuant to the State Building Construction Act of 1955, Part 10b~~  
35 ~~(commencing with Section 15800), to finance the construction and~~  
36 ~~equipping of the Secretary of State and State Archives Building~~  
37 ~~Complex, parking facilities, and any other improvements,~~  
38 ~~betterments, and facilities related thereto as described in~~  
39 ~~subdivision (a).~~

1 ~~(e) The amount of revenue bonds, negotiable notes, or negotiable~~  
2 ~~bond anticipation notes to be sold shall equal the cost of~~  
3 ~~construction and equipping of the complex and facilities, the cost~~  
4 ~~of working drawings, sums necessary to pay financing costs,~~  
5 ~~including interest during construction, and a reasonable reserve~~  
6 ~~fund. Construction costs shall not exceed one hundred million~~  
7 ~~dollars (\$100,000,000) based on the Lee-Saylor Cost Index 433.~~

8 ~~(d) The amount of negotiable bond anticipation notes sold shall~~  
9 ~~not exceed the amount of revenue bonds and negotiable notes~~  
10 ~~authorized by this section. Any augmentation of the approved~~  
11 ~~project costs shall be subject to Section 13332.11. The board may~~  
12 ~~borrow funds for project costs from the Pooled Money Investment~~  
13 ~~Account pursuant to Sections 16312 and 16313.~~

14 ~~(e) At least 20 days prior to the award of the principal bid for~~  
15 ~~the construction of the complex, the director shall notify the~~  
16 ~~chairpersons of the fiscal committees of each house of the~~  
17 ~~Legislature of the amount of the bid.~~

18 ~~(f) (1) The Director of General Services may lease the complex~~  
19 ~~and facilities financed with the proceeds of the revenue bonds,~~  
20 ~~negotiable notes, or negotiable bond anticipation notes from the~~  
21 ~~board pursuant to Section 15817 for use by the Secretary of State~~  
22 ~~and State Archives.~~

23 ~~(2) The director shall notify the Chairperson of the Joint~~  
24 ~~Legislative Budget Committee of the director's intention to execute~~  
25 ~~any lease agreement authorized by paragraph (1) at least 20 days~~  
26 ~~prior to its execution.~~

27 *SEC. 14. Section 12236 of the Government Code is amended*  
28 *to read:*

29 12236. (a) The Secretary of State shall establish ~~the a~~ Local  
30 Government Records Program to be administered by the State  
31 Archives to establish guidelines for local government records  
32 retention and to provide archival support to local agencies in this  
33 state.

34 (b) The Secretary of State shall establish, publish, update, and  
35 maintain on a permanent basis guidelines for local government  
36 records retention. The Secretary of State may consult with  
37 appropriate professional organizations representing city, county,  
38 and special district records administrators regarding the  
39 establishment of these guidelines.

1 (c) The program shall be primarily responsible for the  
2 performance of the following functions:

3 (1) Publish the guidelines developed pursuant to subdivision  
4 (b) in paper form initially and on the Internet web site for the  
5 Secretary of State.

6 (2) Monitor and review changes in state laws and administrative  
7 regulations that pertain to local government records retention.

8 (3) Monitor practices and procedures in records administration  
9 that have bearing on local government records retention and  
10 management.

11 (4) Update published guidelines on a current and timely basis  
12 as changes occur.

13 (5) Make supporting information about state laws and  
14 administrative regulations that pertain to local government records  
15 retention available to local government agencies.

16 (6) Function as the liaison for the State Archives with  
17 appropriate professional organizations.

18 (7) Maintain communication with individual local government  
19 agencies.

20 (8) Consult and provide information and advice to local  
21 government agencies on archival *and records management*  
22 practices.

23 (9) Consult and provide information and advice to local  
24 government agencies on history and heritage.

25 *SEC. 15. Article 7 (commencing with Section 12270) is added*  
26 *to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government*  
27 *Code, to read:*

28

29 *Article 7. State Records Management Act*

30

31 *12270. This article shall be known as the State Records*  
32 *Management Act.*

33 *12271. For the purposes of this article, the following terms*  
34 *shall have the following meanings:*

35 (a) *“Acquire” includes acquisition by gift, purchase, lease,*  
36 *eminent domain, or otherwise.*

37 (b) *“Archival value” means the ongoing usefulness or*  
38 *significance of a record based on the administrative, legal, fiscal,*  
39 *evidential, or historical information it contains, justifying its*  
40 *permanent preservation.*

1 (c) “Public record plant” means the plant, or any part thereof,  
2 or any record therein, of any person engaged in the business of  
3 searching or publishing public records or insuring or guaranteeing  
4 titles to real property, including copies of public records or  
5 abstracts and memoranda taken from public records that are  
6 owned by or in possession of that person or that are used by that  
7 person in his or her business.

8 (d) “Public use form” means a form used by the state to obtain  
9 or to solicit facts, opinions, or other information from the public  
10 or a private citizen, partnership, corporation, organization,  
11 business trust, or nongovernmental entity or legal representative  
12 thereof.

13 (e) “Record” means a paper, map, exhibit, magnetic or paper  
14 tape, photographic film or print, punched card, and other  
15 documents produced, received, owned, or used by an agency,  
16 regardless of its physical form or characteristics. Library and  
17 museum materials made or acquired and preserved solely for  
18 reference or exhibition purposes and stocks of publications and  
19 of processed documents are not included within the definition of  
20 the term “record” as used in this article.

21 12272. (a) The Secretary of State shall establish and  
22 administer a records management program that will apply efficient  
23 and economical management methods to the creation, utilization,  
24 maintenance, retention, preservation, and disposal of state records.

25 (b) The duties of the Secretary of State shall include, but shall  
26 not be limited to:

27 (1) Establishing standards, procedures, and techniques for  
28 effective management of records.

29 (2) Obtaining from agencies reports required for the  
30 administration of the program.

31 12273. Notwithstanding any other law, a record held in the  
32 State Records Center or by a state agency determined by the  
33 Secretary of State to have archival value and to be at risk of  
34 damage or loss, or in poor physical condition, shall be transferred  
35 to the State Archives at the direction of the Secretary of State with  
36 notification to the head of the agency not less than 10 days prior  
37 to the transfer. The Secretary of State shall enforce all statutory  
38 requirements regarding the confidentiality of records transferred  
39 to the State Archives pursuant to this section and shall make the

1 records available to authorized individuals or the public, as  
2 determined by applicable law.

3 12274. The head of a state agency shall do all of the following:

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 may 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 Secretary of State,  
16 records essential to the functioning of state government in the  
17 event of a major disaster.

18 (c) When requested by the Secretary of State, provide a written  
19 justification for storage or extension of scheduled retention of a  
20 record in the State Records Center for a period of 50 years or  
21 more.

22 (d) Comply with the rules, regulations, standards, and  
23 procedures issued by the Secretary of State.

24 12275. (a) A record shall not be destroyed or otherwise  
25 disposed of by an agency of the state, unless it is determined by  
26 the Secretary of State that the record has no further administrative,  
27 legal, or fiscal value and the Secretary of State has determined  
28 that the record is inappropriate for preservation in the State  
29 Archives.

30 (b) The Secretary of State shall not authorize the destruction of  
31 a record subject to audit until he or she has determined that the  
32 audit has been performed.

33 (c) The Secretary of State shall not authorize the destruction of  
34 all or any part of an agency rulemaking file subject to Section  
35 11347.3.

36 12276. (a) The public records of a 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 Secretary of State, for*  
 5 *recording of permanent records or nonpermanent records.*

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

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

16 *12277. A person, other than a temporary employee, serving in*  
 17 *the state civil service and employed by the Department of General*  
 18 *Services in the State Records Program shall remain in the state*  
 19 *civil service and is hereby transferred to the Secretary of State.*  
 20 *The status, position, and rights of the person shall not be affected*  
 21 *by the transfer and shall continue to be retained by the person*  
 22 *pursuant to the State Civil Service Act.*

23 *12278. All equipment and records in the State Records Program*  
 24 *in the Department of General Services are transferred to the*  
 25 *Secretary of State.*

26 *12279. If a public record of a state agency has been lost or*  
 27 *destroyed by conflagration or other public calamity, the Secretary*  
 28 *of State may acquire the right to reproduce any portion of a public*  
 29 *record plant as is necessary for the purpose of restoring or*  
 30 *replacing the record or its substance.*

31 *SEC. 16. Section 14740 of the Government Code is amended*  
 32 *to read:*

33 *14740. This chapter shall be known as the “State Records*  
 34 *Management Storage Act.”*

35 *SEC. 17. Section 14745 of the Government Code is amended*  
 36 *to read:*

37 *14745. The director shall establish and administer in the*  
 38 *executive branch of state government a records-management*  
 39 *storage program, which that will apply efficient and economical*

1 ~~management records storage~~ methods to the ~~creation~~, utilization,  
2 maintenance, retention, preservation, and disposal of state records.

3 *SEC. 18. Section 14746 of the Government Code is amended*  
4 *to read:*

5 14746. The duties of the director shall include, but not be  
6 limited to:

7 (a) Establishing standards, procedures, and techniques for  
8 effective ~~management storage~~ of records.

9 (b) Providing appropriate protection for records designated by  
10 state agencies, with the concurrence of the director, as essential to  
11 the functioning of state government in the event of a major disaster.

12 (c) Obtaining from agencies reports required for the  
13 administration of the program.

14 (d) *Establishing, maintaining, and operating record centers for*  
15 *the storage, processing, and servicing of scheduled records for*  
16 *state agencies pending their deposit with the State Archives or*  
17 *their disposition in any other manner authorized by law.*

18 *SEC. 19. Article 3 (commencing with Section 14750) of Chapter*  
19 *5 of Part 5.5 of Division 3 of Title 2 of the Government Code is*  
20 *repealed.*

21 *SEC. 20. Article 4 (commencing with Section 14755) of Chapter*  
22 *5 of Part 5.5 of Division 3 of Title 2 of the Government Code is*  
23 *repealed.*

24 *SEC. 21. Article 6 (commencing with Section 14765) of Chapter*  
25 *5 of Part 5.5 of Division 3 of Title 2 of the Government Code is*  
26 *repealed.*

27 *SEC. 22. Article 7 (commencing with Section 14769) of Chapter*  
28 *5 of Part 5.5 of Division 3 of Title 2 of the Government Code is*  
29 *repealed.*

30 *SEC. 23. Section 135 of the Labor Code is amended to read:*

31 135. In accordance with rules of practice and procedure that it  
32 may adopt, the appeals board may, with the approval of the  
33 ~~Department of Finance~~ *Secretary of State*, destroy or otherwise  
34 dispose of any file kept by it in connection with any proceeding  
35 under Division 4 (commencing with Section 3200) or Division 4.5  
36 (commencing with Section 6100).