

House Study Bill 242

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
CULTURAL AFFAIRS BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the consolidation of the management of state
2 archives and records and making conforming changes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 14B.102, subsection 2, paragraph e,
1 2 Code 2003, is amended by striking the paragraph and inserting
1 3 in lieu thereof the following:
1 4 e. Developing and maintaining an electronic repository for
1 5 public access to reference copies of agency mandated reports,
1 6 newsletters, and publications in conformity with section
1 7 304B.10, subsection 1, paragraph "h". The department shall
1 8 develop technical standards for an electronic repository in
1 9 consultation with the state librarian and the state archivist.
1 10 Sec. 2. Section 163.37, subsection 3, Code 2003, is
1 11 amended to read as follows:
1 12 3. Such records shall be maintained for a length of time
1 13 as required by and pursuant to chapter ~~304~~ 304B and at the
1 14 point of concentration and shall be made available for
1 15 inspection by the department at reasonable times.
1 16 Sec. 3. Section 303.2, subsection 2, paragraph d, Code
1 17 2003, is amended to read as follows:
1 18 d. Administer the state archives and records program in
1 19 accordance with ~~sections 303.12 through 303.15, and 304.6~~
1 20 chapter 304B.
1 21 Sec. 4. NEW SECTION. 304B.1 CITATION.
1 22 This chapter shall be known and may be cited as the "State
1 23 Archives and Records Act".
1 24 Sec. 5. NEW SECTION. 304B.2 DEFINITIONS.
1 25 As used in this chapter, unless the context otherwise
1 26 requires:
1 27 1. "Agency" means any department, office, commission,
1 28 board, or other unit of state government except as otherwise
1 29 provided by law.
1 30 2. "Archives" means records that have been appraised by
1 31 the state records commission as having sufficient historical,
1 32 research, evidential, or informational value to warrant
1 33 permanent preservation and that have been transferred to the
1 34 custody of the state archives.
1 35 3. "Commission" means the state records commission created
2 1 in section 304B.3.
2 2 4. "Custody" means guardianship or control of records,
2 3 including both physical possession, referred to as physical
2 4 custody, and legal responsibility, referred to as legal
2 5 custody, unless one or the other is specified.
2 6 5. "Designee" means an appointee of a commission member
2 7 listed in section 304B.3, who is a year-round, full-time state
2 8 employee, appointed to regularly represent the commission
2 9 member in the activities of the commission for a period of at
2 10 least two years.
2 11 6. "Government records program" means a systematic state
2 12 government program for the creation, organization,
2 13 administrative use, maintenance, security, public
2 14 availability, and final disposition of records.
2 15 7. "Guideline" means a suggested method of operation for
2 16 specific activities.
2 17 8. "Policy" means a basic statement describing the
2 18 boundaries within which activities are to take place.
2 19 9. "Record" means a document, book, paper, electronic
2 20 record, photograph, sound recording, or other material,
2 21 regardless of physical form or characteristics, made,
2 22 produced, executed, or received pursuant to law in connection
2 23 with the transaction of official business of state government.

2 24 "Record" does not include library and museum material made or
2 25 acquired and preserved solely for reference or exhibition
2 26 purposes or stocks of publications and unprocessed forms.
2 27 10. "Records series retention and disposition schedule"
2 28 means a timetable established by the state records commission
2 29 that describes the length of time a records series of an
2 30 agency or multiple agencies must be retained in active and
2 31 inactive status and provides authorization for a final
2 32 disposition of the records series by destruction or permanent
2 33 retention.

2 34 11. "Records inventory" means a detailed listing of the
2 35 volume, scope, and complexity of an agency's records that is
3 1 compiled for the purpose of creating records series retention
3 2 and disposition schedules.

3 3 12. "Records officer" means a year-round, full-time agency
3 4 official who possesses a broad understanding of programs and
3 5 records of an agency and who is designated by the agency head
3 6 to coordinate the records program or programs within the
3 7 agency.

3 8 13. "Standard" means a specific rule or principle
3 9 established to measure quality or value.

3 10 14. "Vital operating record" means a record containing
3 11 information essential to continue or to reestablish an agency
3 12 in the event of a natural or other disaster, allowing the re=
3 13 creation of the state's legal and financial status, and the
3 14 determination of the rights and obligations of the state and
3 15 its citizens.

3 16 Sec. 6. NEW SECTION. 304B.3 COMMISSION CREATED ==
3 17 DUTIES.

3 18 A state records commission is created. The commission
3 19 shall consist of the following officials or their designees:

- 3 20 1. The secretary of state.
- 3 21 2. The director of the department of cultural affairs.
- 3 22 3. The treasurer of state.
- 3 23 4. The director of revenue and finance.
- 3 24 5. The director of the department of management.
- 3 25 6. The state librarian.
- 3 26 7. The auditor of state.
- 3 27 8. The director of the department of general services.
- 3 28 9. The director of the information technology department.

3 29 Sec. 7. NEW SECTION. 304B.4 COMMISSION PURPOSE.
3 30 The commission shall adopt government information policies,
3 31 standards, and guidelines to do all of the following:

- 3 32 1. Provide for economy and efficiency in the creation,
3 33 organization, maintenance, administrative use, security,
3 34 public availability, and final disposition of government
3 35 records.
- 4 1 2. Ensure creation of proper documentation of the
4 2 organization, functions, policies, decisions, procedures, and
4 3 essential transactions of state government agencies to protect
4 4 the legal and financial rights of the state and of persons
4 5 directly affected by the government's activities.
- 4 6 3. Identify and preserve state government records that
4 7 document the history and development of the state.

4 8 Sec. 8. NEW SECTION. 304B.5 EXPENSES.
4 9 Members of the commission shall serve without compensation
4 10 but may receive their actual expenses incurred in the
4 11 performance of their duties.

4 12 Sec. 9. NEW SECTION. 304B.6 MEETINGS.
4 13 The commission shall have its offices at the seat of
4 14 government but may hold meetings in other locations. The
4 15 commission shall meet quarterly and at the call of the
4 16 chairperson.

4 17 Sec. 10. NEW SECTION. 304B.7 ADMINISTRATION.
4 18 The department of cultural affairs, through the state
4 19 archives and records program, is the primary agency
4 20 responsible for providing administrative personnel and
4 21 services for the commission.

4 22 Sec. 11. NEW SECTION. 304B.8 COMMISSION
4 23 RESPONSIBILITIES.

- 4 24 1. The commission shall do all of the following:
 - 4 25 a. Develop and adopt government information policies,
4 26 standards, and guidelines for the creation, storage,
4 27 retention, and disposition of records.
 - 4 28 b. In consultation with the emergency management division
4 29 of the department of public safety, establish policies,
4 30 standards, and guidelines for the identification, protection,
4 31 and preservation of records essential for the continuity or
4 32 reestablishment of governmental functions in the event of an
4 33 emergency arising from a natural or other disaster.
 - 4 34 c. Provide planning, policy development, and review for

4 35 the government records program.
5 1 d. Adopt rules pursuant to chapter 17A that provide
5 2 government information policies and standards.
5 3 e. Adopt and maintain an interagency records manual
5 4 containing the rules governing records management, as well as
5 5 records series retention and disposition schedules,
5 6 guidelines, and other information relating to implementation
5 7 of this chapter.
5 8 f. Make recommendations, in consultation with the
5 9 information technology department, to the governor and the
5 10 general assembly for the continued reduction of printed
5 11 reports throughout state government in a manner that protects
5 12 the public's right to access such reports.
5 13 g. Provide advice, counsel, and services to the
5 14 legislative, judicial, and executive branch agencies subject
5 15 to this chapter on the care and management of state government
5 16 records.
5 17 h. Report to the governor and the general assembly on the
5 18 status of the government records program.
5 19 i. Perform any act necessary and proper to carry out its
5 20 duties.
5 21 2. The commission may do all of the following:
5 22 a. Examine records in the possession, constructive
5 23 possession, or control of state agencies to carry out the
5 24 purposes of this chapter.
5 25 b. Enter into agreements and contracts.
5 26 c. Secure appropriations, grants, or other outside
5 27 funding.
5 28 d. Appoint advisory committees of citizens, public
5 29 officials, or professional consultants to secure advice on
5 30 records issues.
5 31 e. Make, or cause to be made, preservation duplicates of
5 32 records, which may include existing copies of original state
5 33 records. Any preservation duplicate record shall be durable,
5 34 accurate, complete, and clear, and shall be made by means
5 35 designated by the commission.
6 1 f. Develop appropriate charges for services provided for
6 2 the convenience of state agencies, the judicial and
6 3 legislative branches, political subdivisions, or the public.
6 4 g. Provide advice and counsel to political subdivisions on
6 5 the care and management of local government records.
6 6 h. Establish a centralized records storage facility.
6 7 Sec. 12. NEW SECTION. 304B.9 DEPARTMENT OF CULTURAL
6 8 AFFAIRS RESPONSIBILITIES.
6 9 1. The department of cultural affairs shall do all of the
6 10 following:
6 11 a. Provide administrative support to the state records
6 12 commission through the state archives and records program.
6 13 b. Appoint a state archivist to head the state archives
6 14 and records program.
6 15 c. Maintain all official records of the state records
6 16 commission.
6 17 d. Provide training, advice, and counsel to agencies on
6 18 government information policies, standards, and guidelines.
6 19 e. Recommend records series retention and disposition
6 20 schedules to the commission for consideration.
6 21 f. Recommend plans, policies, standards, and guidelines on
6 22 records issues to the commission for consideration.
6 23 g. Compile, update, and distribute the state records
6 24 manual as adopted by the commission.
6 25 h. Manage any centralized records storage facility
6 26 established by the commission for the temporary storage of
6 27 agency records prior to their final disposition by destruction
6 28 or permanent preservation in accordance with the records
6 29 series retention and disposition schedules.
6 30 i. Develop and distribute operating procedures for
6 31 agencies to use to implement the plans, policies, standards,
6 32 and guidelines adopted by the commission.
6 33 j. Provide advice, counsel, and services to the
6 34 legislative, judicial, and executive branch agencies subject
6 35 to this chapter on the care and management of state government
7 1 records.
7 2 k. Manage the state archives and develop operating
7 3 procedures for the transfer, accessioning, arrangement,
7 4 description, preservation, protection, and public access of
7 5 those records the commission identifies as having permanent
7 6 value.
7 7 l. Maintain physical custody and legal custody of archives
7 8 that have been transferred and delivered to the state
7 9 archives.
7 10 (1) Upon receipt by the state archivist, the archives

7 11 shall not be removed without the state archivist's consent
7 12 except in response to a subpoena of a court of record or in
7 13 accordance with approved records series retention and
7 14 disposition schedules or after review and approval of the
7 15 commission.

7 16 (2) Upon request, the state archivist shall make a
7 17 certified copy of any record in the legal custody or in the
7 18 physical custody of the state archivist, or a certified
7 19 transcript of any record if reproduction is inappropriate
7 20 because of legal or physical considerations. If a copy or
7 21 transcript is properly authenticated, it has the same legal
7 22 effect as though certified by the officer from whose office it
7 23 was transferred or by the secretary of state. The department
7 24 of cultural affairs shall establish reasonable fees for
7 25 certified copies or certified transcripts of records in the
7 26 legal custody or physical custody of the state archivist.

7 27 2. The department of cultural affairs may:

7 28 a. Upon written consent of the state archivist, accept
7 29 records of political subdivisions that are voluntarily
7 30 transferred to the state archives.

7 31 b. Provide advice and counsel to political subdivisions on
7 32 the care and management of local government records.

7 33 Sec. 13. NEW SECTION. 304B.10 AGENCY HEAD
7 34 RESPONSIBILITIES.

7 35 1. Each agency head shall do all of the following:

8 1 a. Make and maintain records containing adequate and
8 2 proper documentation of the agency organization, functions,
8 3 policies, decisions, procedures, and essential transactions
8 4 designed to furnish information to protect the legal and
8 5 financial rights of the state and of persons directly affected
8 6 by the agency's activities.

8 7 b. Designate one or more agency officials with broad
8 8 understanding of agency programs and records to be an agency
8 9 records officer to coordinate records programs within the
8 10 agency and to be the point of contact with the state archives
8 11 and records program.

8 12 c. Cooperate with the state records commission and the
8 13 state archives and records program in the development and
8 14 implementation of government information policies, standards,
8 15 and guidelines, and in the development and implementation of
8 16 records series retention and disposition schedules.

8 17 d. Comply with requests from the state records commission
8 18 or the state archives and records program to examine records
8 19 in the possession, constructive possession, or control of the
8 20 agency in order to carry out the purposes of this chapter.

8 21 e. Inventory agency records in accordance with state
8 22 records commission policies to draft records series retention
8 23 and disposition schedules.

8 24 f. Identify vital operating records in accordance with the
8 25 policies, standards, and guidelines of the state records
8 26 commission.

8 27 g. Provide for the identification, protection, and
8 28 preservation of vital operating records in the custody of the
8 29 agency.

8 30 h. Prepare all mandated reports, newsletters, and
8 31 publications for electronic distribution in accordance with
8 32 government information policies, standards, and guidelines. A
8 33 reference copy of all mandated reports, newsletters, and
8 34 publications shall be located at an electronic repository for
8 35 public access to be developed and maintained by the
9 1 information technology department in consultation with the
9 2 state librarian and the state archivist.

9 3 i. Provide for maximum economy and efficiency in the day-
9 4 to-day recordkeeping activities of the agency.

9 5 j. Provide for compliance with this chapter and the rules
9 6 adopted by the state records commission.

9 7 2. Agency heads may petition the state records commission
9 8 to create or modify government information policies,
9 9 standards, and guidelines, and to create or modify records
9 10 series retention and disposition schedules.

9 11 Sec. 14. NEW SECTION. 304B.11 TERMINATION OF STATE
9 12 AGENCY.

9 13 Upon the termination of a state agency whose functions have
9 14 not been transferred to another agency, custody of the records
9 15 of the agency shall transfer to the commission.

9 16 Sec. 15. NEW SECTION. 304B.12 DUPLICATES.
9 17 A preservation duplicate record shall have the same force
9 18 and effect for all purposes as the original record whether or
9 19 not the original record is in existence. A certified
9 20 transcript, exemplification, or copy of a preservation
9 21 duplicate record shall be deemed for all purposes to be a

9 22 certified transcript, exemplification, or copy of the original
9 23 record.

9 24 Sec. 16. NEW SECTION. 304B.13 RECORDS STATE PROPERTY.

9 25 All records made or received by or under the authority of
9 26 or coming into the custody, control, or possession of public
9 27 officials of this state in the course of their public duties
9 28 are the property of the state and shall not be mutilated,
9 29 destroyed, transferred, removed, or otherwise damaged or
9 30 disposed of, in whole or in part, except as provided by law or
9 31 by rule.

9 32 Sec. 17. NEW SECTION. 304B.14 LIABILITY PRECLUDED.

9 33 No member of the commission or head of an agency shall be
9 34 held liable for damages or loss, or civil or criminal
9 35 liability, because of the destruction of public records
10 1 pursuant to the provisions of this chapter or any other law
10 2 authorizing their destruction.

10 3 Sec. 18. NEW SECTION. 304B.15 EXEMPTIONS == DUTIES OF
10 4 STATE DEPARTMENT OF TRANSPORTATION AND STATE BOARD OF REGENTS.

10 5 The state department of transportation and the agencies and
10 6 institutions under the control of the state board of regents
10 7 are exempt from the state records manual and the provisions of
10 8 this chapter. However, the state department of transportation
10 9 and the state board of regents shall adopt rules pursuant to
10 10 chapter 17A for their employees, agencies, and institutions
10 11 that are consistent with the objectives of this chapter. The
10 12 rules shall be approved by the state records commission.

10 13 Sec. 19. NEW SECTION. 304B.16 IOWA HISTORICAL RECORDS
10 14 ADVISORY BOARD ESTABLISHED.

10 15 An Iowa historical records advisory board is established in
10 16 accordance with 36 C.F.R. } 1206.36=38.

10 17 1. MEMBERSHIP. The board shall consist of nine members
10 18 appointed by the governor for three-year staggered terms.
10 19 Members shall be eligible for reappointment. The members
10 20 shall have experience in a field of research or an activity
10 21 that administers or makes extensive use of historical records.
10 22 The majority of the members shall have professional
10 23 qualifications and experience in the administration of
10 24 government records, historical records, or archives. The
10 25 administrator of the historical division of the department of
10 26 cultural affairs shall serve as an ex officio member of the
10 27 board.

10 28 2. COORDINATOR. The state archivist shall serve as chair
10 29 of the board and as state historical records coordinator.

10 30 3. ADMINISTRATION. The department of cultural affairs,
10 31 through the state archives and records program, is the primary
10 32 agency responsible for providing administrative personnel and
10 33 services for the board.

10 34 4. MEETINGS. The board shall meet at least three times
10 35 annually and at the call of the chair. At least one meeting
11 1 annually shall be held outside the state capital or in
11 2 conjunction with a meeting of a relevant statewide
11 3 professional organization.

11 4 5. EXPENSES. Members of the board shall serve without
11 5 compensation but may receive their actual expenses incurred in
11 6 the performance of their duties.

11 7 6. RESPONSIBILITIES.

11 8 a. The board shall do all of the following:

11 9 (1) Serve as the central advisory body for historical
11 10 records planning in the state and as a coordinating body to
11 11 facilitate cooperation among historical records repositories
11 12 and other information agencies within the state.

11 13 (2) Serve as a state level review body for grant proposals
11 14 submitted to the national historical publications and records
11 15 commission.

11 16 b. The board may do all of the following:

11 17 (1) Serve in an advisory capacity to the state records
11 18 commission, the state archives and records program, and other
11 19 statewide archival or records agencies.

11 20 (2) Seek funds from the national historical publications
11 21 and records commission or other grant=funding bodies for
11 22 sponsoring and publishing surveys of the conditions and needs
11 23 of historical records in the state; for developing, revising,
11 24 and distributing funding priorities for historical records
11 25 projects in Iowa; for implementing projects to be carried out
11 26 in the state for the preservation of historical records and
11 27 publications; or for reviewing through reports and otherwise,
11 28 the operation and progress of records projects in the state.

11 29 Sec. 20. Chapter 304, Code 2003, is repealed.

11 30 Sec. 21. Sections 303.12, 303.13, 303.14, and 303.15, Code
11 31 2003, are repealed.

11 32

EXPLANATION

11 33 This bill creates new Code chapter 304B relating to the
11 34 administration of the state records program by consolidating
11 35 applicable Code sections into one Code chapter that deals with
12 1 a government records program.

12 2 The bill modifies and reorganizes multiple levels of duties
12 3 and responsibilities of the state records commission,
12 4 department of cultural affairs, and state agency heads in the
12 5 creation, organization, maintenance, use, and final
12 6 disposition of government records by destruction or permanent
12 7 preservation.

12 8 The bill amends and further defines the role of the state
12 9 records commission in the development and adoption of
12 10 government information policies, standards, and guidelines
12 11 including, but not limited to, duplication of records,
12 12 technology for the creation, storage, and retention of
12 13 records, identification and security of vital operating
12 14 records, records series retention and disposition schedules,
12 15 and disaster recovery plans for records.

12 16 The bill further defines the management and administrative
12 17 duties of the department of cultural affairs including, but
12 18 not limited to, providing administrative support to the state
12 19 records commission, providing training, advice, and counsel to
12 20 agencies on government information policies, standards and
12 21 guidelines, developing operating procedures to implement the
12 22 plans and policies adopted by the state records commission,
12 23 and administering the state archives.

12 24 The bill further defines the responsibilities of the state
12 25 agency heads, including, but not limited to, making and
12 26 maintaining records containing adequate and proper
12 27 documentation of the agency organization, designating an
12 28 agency official or officials with a broad knowledge of agency
12 29 programs and records to coordinate records programs within the
12 30 agency, and implementing government information policies,
12 31 standards, guidelines, and records series retention and
12 32 disposition schedules at the agency level for records in
12 33 agency custody.

12 34 The bill further provides for the establishment of the Iowa
12 35 historical records advisory board to serve as the central
13 1 advisory body for historical records planning in the state and
13 2 also as a coordinating body to facilitate cooperation among
13 3 historical records repositories and other information agencies
13 4 within the state.

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