

SENATE BILL NO. 149

BY SENATOR FIELDS

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 44:401, R.S. 44:402, 405, 406,
3 408(A), 410, 411, 415, 419, and 422 and to repeal R.S. 44:407, 412, 413, 414, 416,
4 and 423, relative to the powers, duties, and functions of the Louisiana State
5 Archives; to provide for definitions; to provide for procedures; to provide for
6 retention of records; to provide for management of records; to provide for the
7 authority of the secretary of state; to provide for imaging and preservation services;
8 to provide for safeguards against the destruction of records; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. The introductory paragraph of R.S. 44:401, R.S. 44:402, 405, 406, 408(A),
12 410, 411, 415, 419, and 422 are hereby amended and reenacted to read as follows:

13 §401. Division of archives, records management, and history

14 The division of archives, records management, and history is hereby created
15 and established as a division of the Department of State, to perform all duties,
16 functions, and responsibilities and to exercise all authority or authorities heretofore
17 assigned to the Louisiana State Archives and Records Service by providing for a
18 statewide system of managing and preserving government records which will meet
19 informational requirements and serve the rights and interests of government and its
20 citizens, and specifically to:

21 * * *

22 §402. Definitions

23 For the purpose of this Chapter:

24 (1) "Secretary" means the secretary of state who oversees the Department
25 of State.

26 (2) "State archivist" means the state archivist and director of the division of
27 archives, records management, and history, appointed by the secretary to serve as

1 director of that division and as state archivist.

2 (3) "Division" means the division of archives, records management, and
3 history.

4 (4) "Records" means all documents, papers, letters, books, drawings, maps,
5 plats, photographs, magnetic or optical media, microfilm, microphotograph, motion
6 picture film, or other document or any other material, regardless of physical form or
7 characteristic, generated or received under law or in connection with the transaction
8 of official business, or preserved by an agency or political subdivision because of
9 other informational or legal value. This term shall not be construed to include library
10 and museum material developed or acquired and preserved solely for reference or
11 exhibition purposes, extra copies maintained for convenience in reference or stocks
12 of standard publications, or processed documents.

13 (5) "Agency" means any state, parish and municipal office, department,
14 division, board, bureau, commission, authority, or other separate unit of state, parish,
15 or municipal government created or established by the constitution, law, resolution,
16 proclamation, or ordinance.

17 (6) "~~State archives~~ **Louisiana State Archives**" means an establishment
18 maintained by the ~~division~~ **secretary** to administer a program to provide for the
19 preservation of ~~those records, and other papers,~~ **and artifacts** that have been
20 determined by the state archivist to have sufficient historical, fiscal, or legal value
21 to warrant their continued preservation by the state, ~~whether they have been~~
22 ~~deposited with the state archives or are to be maintained in agency custody.~~

23 (7) "Records management" means the systematic application of management
24 techniques to the creation, utilization, maintenance, retention, preservation, and
25 disposal of records for the purpose of reducing costs and improving efficiency of
26 records keeping. "~~Records management~~" **This term** includes ~~management of filing~~
27 ~~and microfilming equipment and supplies;~~ **the conversion of records from one**
28 **format to another,** filing and information retrieval systems; ~~files, correspondence,~~
29 ~~reports, and forms management; historical documentation; micrographics; retention~~
30 ~~programming;~~ and vital records protection.

1 (8) "Records center" means an establishment maintained by the ~~division~~
2 **secretary** primarily for the economical storage, processing, servicing, and security
3 of inactive ~~public~~ records that must be retained for varying periods of time but which
4 need not be held in agency offices for the entire periods.

5 (9) "Retention ~~and disposal~~ schedule" means a set of disposition instructions
6 prescribing how long, in what location, under what conditions, and in what form
7 records series shall be kept.

8 (10) "Vital records" means any record essential to either or both the
9 resumption or continuation of operations, to verification or re-creation of the legal
10 and financial status of government in the state, or to the protection and fulfillment
11 of obligations to citizens of the state.

12 ~~(11) "Destruction" means to destroy by shredding, burning, or other suitable~~
13 ~~means of obliteration.~~

14 ~~(12)~~**(11)** "Disposal" means destruction in any manner approved by the
15 environmental authority **and state archivist**; or, transferral into the custody of the
16 repository designated by the state archivist as most appropriate for continued
17 maintenance.

18 * * *

19 §405. Powers and duties

20 A. The secretary shall enforce the provisions of this Chapter and pursuant
21 thereto may promulgate, ~~or authorize the state archivist to promulgate,~~ policies not
22 inconsistent with law and in accordance with the Administrative Procedure Act,
23 establishing:

24 (1) Procedures for the ~~compiling and submitting~~ **creation and submission**
25 **of retention schedules** to the division heretofore created, ~~of lists and schedules of~~
26 ~~records proposed for disposal.~~

27 (2) Procedures for the disposal of records ~~authorized for disposal,~~ whether in
28 agency custody or in the possession of the division.

29 (3) Procedures for the ~~reproduction of public records by photographic,~~
30 ~~microphotographic, or other appropriate process when necessary to assure the~~

1 preservation thereof: conversion of records by microphotographic or electronic
 2 digitizing processes.

3 (4) Procedures for ~~preservation, repair, treatment, and restoration of old,~~
 4 ~~discolored, worn, fragile, faded, or torn documents, or records which are declared by~~
 5 ~~the state archivist to have historical or archival value, whether stored in the state~~
 6 ~~archives, the records center, or held in the custody of the repository agency~~ the
 7 collection of records from agencies that are declared by the state archivist to
 8 have intrinsic, historical, or evidentiary value.

9 B. It is intended that such policies, rules, and regulations be formulated after
 10 surveying and evaluating the circumstances of and receiving advice from the various
 11 state agencies and the governing authorities of the various subdivisions of the state.
 12 Such The promulgated policies, rules, and regulations thereafter shall be binding
 13 upon all the agencies of the state and its subdivisions agencies. The secretary shall
 14 employ such personnel, purchase such equipment, and provide such facilities as may
 15 be required in the execution of the powers and duties imposed upon the secretary.
 16 The secretary shall perform any acts deemed necessary, legal and proper to carry out
 17 the duties and responsibilities imposed upon him pursuant to the authority granted
 18 herein.

19 C. The secretary is hereby authorized to inspect and survey records,
 20 records management policies, and records disposal practices of any agency and
 21 obtain reports thereon. The secretary shall be given full cooperation of officials
 22 and employees of state agencies in any inspection, survey, or report. The
 23 secretary may report to the legislature and the governor on these activities at
 24 his discretion or as called upon by the governor or legislature.

25 §406. Collection of records

26 The state archivist shall collect court records, official documents, reports,
 27 newspapers, church records, private papers, and other historical materials and data
 28 pertaining to the colonial, territorial, and statehood periods from the earliest times
 29 to the present, to have said documents, records, and material properly repaired, filed,
 30 indexed, and preserved, whether physically or by micrographic or other appropriate

1 ~~process or both, and, when deemed desirable, edited and published to encourage~~
 2 ~~historical investigation and research in the history of the state. When original~~
 3 ~~documents or records are to be maintained in the possession of a custodial agency,~~
 4 ~~the division may provide for the making of a microphotographic security copy or~~
 5 ~~other appropriate facsimile for deposit with the state archives.~~ **may collect and**
 6 **accept records of any format, papers, and artifacts from agencies or the public,**
 7 **provided these records adhere to the mission of the division as provided in R.S.**
 8 **44:401. The division shall prepare inventories, indexes, catalogs, and other aids**
 9 **to facilitate the access and use of these records.**

10 * * *

11 §408. Archives and records center building; duty custody and control

12 A. The secretary shall have custody and control of the Louisiana State
 13 Archives and its contents to house and facilitate operations of the various archives
 14 and records management programs, including the records center establishment, and
 15 ~~through the Louisiana State Building Authority or its successors~~ shall have authority
 16 to design, build, purchase, lease, maintain, operate, protect, and improve buildings
 17 or facilities used for the storage of inactive records of state and local agencies of
 18 Louisiana.

19 * * *

20 §410. Records management programs; ~~policies and principles~~

21 A. ~~The secretary, acting through the state archivist, shall, with due regard to~~
 22 ~~the program activities of the state and local agencies concerned, prescribe policies~~
 23 ~~and principles to be followed by state and local governmental agencies in the~~
 24 ~~conduct of their records management programs and make provision for the~~
 25 ~~economical and efficient management of records by state and local governmental~~
 26 ~~agencies; by analyzing, developing, prescribing, and coordinating the~~
 27 ~~implementation of standards, procedures, and techniques designed to improve the~~
 28 ~~management of records, to insure the maintenance and security of records deemed~~
 29 ~~appropriate for preservation, and to facilitate the segregation and disposal of records~~
 30 ~~of temporary value; and by effecting the efficient and economical utilization of~~

1 space, equipment, and supplies needed for the purpose of creating, maintaining,
 2 storing, and servicing records. The secretary shall maintain a statewide records
 3 management program that prescribes policies and principles to be followed by
 4 state and local agencies for the economical and efficient management of state
 5 and local government records, to improve preservation and access to records,
 6 to insure the maintenance and security of records, and to facilitate the
 7 appropriate retention or disposal of records.

8 B. The division also shall formulate and execute a program to inventory,
 9 schedule, and microfilm official parish, municipal, and other local records which are
 10 determined by the state archivist to have permanent value, to provide safe storage for
 11 microfilm copies of such records, and to give advice and assistance to local officials
 12 in their programs for creating, preserving, filing, and making available public records
 13 in their custody. The division may assist any state, parish, municipal, or other local
 14 agency to implement a records program by providing records analysts and
 15 consultants in records management, conducting surveys in order to recommend more
 16 efficient records management practices, and providing training for records
 17 management personnel. The secretary shall employ records analysts to assist
 18 agencies in their compliance with the requirements of this Chapter and to
 19 provide training regarding compliance with the statewide records management
 20 program to state and local agencies.

21 §411. Retention of records, actions for recovery of records Record management
 22 obligation of agency heads

23 A. The secretary, acting through the state archivist, shall establish standards
 24 for the retention of records of continuing value, and monitor state and local agencies
 25 in the application of such standards to all records in their custody. To facilitate this
 26 application:

27 (1) The head of each agency shall establish and maintain a program for
 28 the economical and efficient management of the records of the agency, including
 29 the maintenance, access, use, security, and preservation of the records.

30 (2) The head of each agency shall annually designate a records officer to

1 act as a liaison between the division and the agency on all matters relating to
 2 records management.

3 ~~(1)~~**(3)** The head of each agency shall submit to the state archivist, in
 4 accordance with the policies, rules, and regulations prescribed by the secretary and
 5 the implementational standards and procedures established by the state archivist,
 6 **retention** schedules proposing the length of time each state record series warrants
 7 **retention shall be kept** for administrative, legal, or fiscal purposes after it has been
 8 created or received by the agency.

9 ~~(2)~~**(4)** The head of each agency shall also submit **disposal requests** to the
 10 state archivist lists of state **listing** records in the custody of ~~that~~ **the** agency which are
 11 no longer required for the transaction of current business and which lack sufficient
 12 administrative, legal, or fiscal value to warrant further retention and request that the
 13 state archivist authorize appropriate disposal. **The state archivist, at his discretion,**
 14 **may require the records to be kept for a longer period than specified in the**
 15 **approved retention schedule or by law.**

16 ~~(3)~~**(5)** Upon termination of employment with the state, unless otherwise
 17 directed by law, each agency head prior to transfer of his records to a successor, shall
 18 notify the state archivist to arrange for an appraisal to determine which record or
 19 records series should be retained in the agency office and which should be
 20 transferred to the custody of the division for permanent retention.

21 ~~(4)~~**(6)** The records of any state agency, upon termination of its existence or
 22 functions, shall automatically be transferred into the custody of the division, unless
 23 otherwise directed by law.

24 ~~B. The secretary, acting through the state archivist, shall also notify the head~~
 25 ~~of any such agency of any actual, impending, or threatening unlawful removal,~~
 26 ~~defacing, alteration, or destruction of records in the custody of such agency that shall~~
 27 ~~come to his attention, and initiate action through the attorney general for the~~
 28 ~~recovery of such records as shall have been unlawfully removed and for such other~~
 29 ~~redress as may be provided by law. In any case in which records or other materials~~
 30 ~~of actual or potential archival significance are determined by the state archivist to be~~

1 in jeopardy of destruction or deterioration, and such material is not essential to the
2 conduct of daily business in the agency of origin, the secretary shall have authority
3 to require and schedule transfer of said records to the physical and legal custody of
4 the division and the state archivist.

5 C. To ensure that the above enumerated reports and notifications are
6 submitted and implemented, the chief executive officer of each state agency shall
7 designate annually a records officer to act as liaison between the division and the
8 agency on all matters relating to records management.

9 * * *

10 §415. Centralized imaging **Imaging** and preservation services

11 The imaging and preservation services section of the records management
12 program of the division shall be the centralized document conversion center for the
13 state. All state agencies lacking existing internally established paper conversion
14 systems of their own, and those state agencies whose equipment or facilities are no
15 longer adequate to meet the agency's need, shall contract with the division for
16 conversion services or shall obtain division approval for a conversion contract with
17 any other vendor or purchase of any other conversion system. All records produced
18 by state agency conversion systems shall comply with standards established by the
19 division in accordance with R.S. 44:405(A)(3).

20 **The imaging and preservation services program shall provide conversion**
21 **services for the state. All agencies shall contract with the division for conversion**
22 **services or shall comply with the conversion standards and disposal request**
23 **procedures established by the division in accordance with R.S. 44:405.**

24 * * *

25 §419. Preservation, ~~repair~~ **conservation, and** exhibition of records; ~~finding aids~~

26 A. The state archivist shall make provisions for the preservation,
27 management, repair, and rehabilitation, duplication and reproduction, description,
28 and exhibition of records or related documentary material transferred to him as may
29 be needful or appropriate, including the preparation and duplication of inventories,
30 indexes, catalogs, and other finding aids or guides facilitating their use. **The**

1 secretary shall maintain a conservation and exhibition program and shall
 2 provide for the preservation, conservation, and exhibition of records at the
 3 Louisiana State Archives.

4 ~~B. The state archivist shall make provisions for the display or exhibition of~~
 5 ~~photographic copies of microphotographic copies of records in his or the agency's~~
 6 ~~custody, in lieu of the original records, if he deems it necessary to protect old,~~
 7 ~~fragile, or damaged records from further damage or loss. The secretary shall~~
 8 ~~provide for the exhibition of copies in lieu of the original records, if he deems~~
 9 ~~it necessary to protect old, fragile, or damaged records.~~

10 * * *

11 §422. Safeguards against ~~the~~ removal, unlawful destruction, or loss of records

12 A. The head of each agency ~~of the state or its subdivisions~~ shall establish
 13 such safeguards against removal or loss of records as he shall consider necessary and
 14 as may be required by rules and regulations issued under authority of this Chapter.
 15 Such safeguards shall include making it known to all officials and employees of the
 16 agency that no records are to be alienated or destroyed except in accordance with law
 17 and the policies, rules, and regulations developed therefrom by the state archivist and
 18 the division, and calling their attention to the penalties provided by law for the
 19 unlawful removal or destruction of records.

20 B. The head of each agency shall notify the secretary through the state
 21 archivist of any actual, impending, or threatened unlawful removal, damage,
 22 falsification, defacement, alteration, or destruction of records in the custody of
 23 the agency that come to his attention and shall assist the secretary in initiating
 24 legal action through the attorney general for their recovery.

25 C. The secretary shall notify the head of any agency of any actual,
 26 impending, or threatened unlawful removal, damage, falsification, defacement,
 27 alteration, or destruction of records in the custody of the agency that come to
 28 his attention.

29 ~~B-D.~~ The secretary of state, acting through the state archivist, may refer any
 30 matter to the legislative auditor, inspector general, or attorney general as necessary

1 for investigation relating to any instance of ~~damaging, altering, tampering with, or~~
 2 ~~falsifying records~~ **actual, impending, or threatened unlawful removal, damage,**
 3 **falsification, defacement, alteration, or destruction of records,** including but not
 4 limited to fraudulent creation, distribution, or filing of records.

5 **E. In any case in which records or other materials of actual or potential**
 6 **archival significance are determined by the state archivist to be in jeopardy of**
 7 **destruction or deterioration, the secretary shall have the authority to require**
 8 **and schedule transfer of the records to the physical and legal custody of the**
 9 **division and the state archivist.**

10 Section 2. R.S. 44:407, 412, 413, 414, 416, and 423 are hereby repealed in their
 11 entirety.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____